

**BYLAWS
THE UNIVERSITY OF MONTANA FOUNDATION**

ARTICLE I

Definitions

SECTION 1. As used in these Bylaws:

- A. "Board" means the Board of Trustees of The University of Montana Foundation.
- B. "Chair" means the Chair of the Foundation.
- C. "Foundation" means The University of Montana Foundation.
- D. "President" means the President and CEO of the Foundation.
- E. "Secretary" means the Secretary of the Foundation.
- F. "Treasurer" means the Treasurer of the Foundation.
- G. "Trustee" means a duly elected incumbent Trustee of the Foundation and a voting member of the Board.
- H. "Trustee Emeritus" means a former Trustee so designated by vote of the Board.
- I. "University" means The University of Montana.
- J. "Vice Chair" means the Vice Chair of the Foundation.

ARTICLE II

Board of Trustees

SECTION 1. The management and control of the Foundation is vested in the Board.

SECTION 2. The number of Trustees shall be determined by the Board upon a two-thirds (2/3) vote at any regular meeting, but shall be not less than twenty-one (21), and not more than forty (40), except that the number may be forty-one (41) from time to time if the immediate past Chair's term is extended as provided in Section 5, below. The term of a Trustee may not be terminated by this provision.

SECTION 3.

- A. Trustees shall be elected for a term of three (3) years. Trustees may be elected at a Board meeting during which a quorum exists by a majority of those Trustees present. Based upon compliance with the expectations established for Trustees, the Board may elect a Trustee for a second three-year term. The term of a Trustee shall commence at the conclusion of the meeting at which he or she is elected.
- B. The Governance Committee shall nominate persons for election as Trustees thirty (30) days or more before the annual meeting of the Board. Nominations

may also be made from the floor at an annual meeting.

- C. A vacancy in the office of Trustee may be filled by nominating and electing a replacement Trustee for a three (3) year term as provided in this section.

SECTION 4. Sixty percent (60%) or more of Trustees shall be former students of the University. An employee of the University may not serve as a Trustee.

SECTION 5. A Trustee may not serve for more than two (2) consecutive terms except (A) that the Chair, Vice Chair, or Treasurer may be elected for a maximum of two (2) additional three (3) year terms, (B) if the term of a Trustee expires while such Trustee is serving as the immediate past Chair, such Trustee's term shall automatically be extended for the period of time such Trustee is serving as the immediate past Chair, during which extension such Trustee shall continue to be a voting Trustee, or (C) if, in exceptional circumstances, the interests of the Foundation would be best served by allowing a Trustee to serve an additional term of up to three years based upon the recommendation of the Governance Committee and affirmed by the Board.

SECTION 6. A Trustee may be removed by a two-thirds (2/3) vote of the Board at any regular or special meeting called for such purpose, on at least ten (10) days' notice. Failure to meet expectations for Trustee service as outlined in the engagement letter signed by new Trustees and further detailed in the Trustee handbook, including successive absences from Board meetings, could serve as a basis for removal.

SECTION 7. Non-voting, ex-officio members of the Board are identified below. Ex-officio members are not Trustees and do not cast votes in any of the Board's actions. Except for the roles prescribed for the President and Secretary in Article VI and Article IV, Section 6, respectively, the roles for participation of non-voting, ex-officio members are honorary in nature and at the discretion of the Board.

- A. The President;
- B. The Secretary; and
- C. The President of the University of Montana.

SECTION 8. The authority to elect Trustees, hire the President, and modify the Bylaws and articles of incorporation is vested with the Board and may not be delegated to any committee.

ARTICLE III

Meetings

SECTION 1. There shall be two (2) regular meetings of the Board each year at a place and time to be determined by the Chair, one of which shall be the annual meeting.

SECTION 2. Special meetings of the Board may be called by the Chair, the Executive Committee, or by seven (7) or more Trustees.

SECTION 3. Notice of all regular and special meetings of the Board shall be given by mail, telephone or electronic communication to a Trustee at their address at least ten (10) days or more before the meeting.

SECTION 4. A quorum shall consist of a majority of the Trustees. A lesser number may meet and adjourn from time to time until a quorum is present.

SECTION 5. Trustees shall be allowed to participate in any regular or special meeting by any means of communication (e.g. conference call or video conferencing) by which all Trustees participating may simultaneously hear each other during the meeting. A Trustee participating in a meeting by this means is considered present in person at the meeting.

ARTICLE IV

Officers

SECTION 1. The officers of the Foundation consist of the Chair, Vice Chair and Treasurer who are Trustees, and the Secretary, who shall be a senior member of the Foundation staff.

SECTION 2. The Chair, Vice Chair and Treasurer each shall be nominated by the Governance Committee and elected for one (1) two (2) year term at an annual meeting of the Board, and shall begin their terms at the conclusion of the meeting at which they are elected.

SECTION 3. A vacancy occurring in the position of Chair, Vice Chair or Treasurer shall be filled by the Board at any regular or special meeting by the election of a Trustee to fill the remainder of the unexpired term.

SECTION 4. The Chair shall preside at all meetings of the Board and perform the duties customarily required of a chair subject to the direction of the Board.

SECTION 5. The Vice Chair shall perform the duties of the Chair in the absence of the Chair. If the Chair is unable or unwilling to perform the responsibilities of the office, the Vice Chair shall succeed the Chair contingent upon a confirming vote of the Board. If the Board confirms the Vice Chair as Chair in a circumstance in which the Chair is unable or unwilling to perform the responsibilities of their office, the Board will elect a Vice Chair within thirty days of the confirming vote after receiving one or more nominations from the Governance Committee.

SECTION 6. The Secretary shall be a senior member of the Foundation staff, designated in

writing by the Chair or, if acceptable to the Chair, a designation by their predecessor. The Secretary has charge of the seal and corporate books and records of the Foundation, and shall issue notices of Board meetings. With the Chair, the Secretary shall execute such instruments as required, and shall make such reports and perform such other duties as are incident to the office.

SECTION 7. The Treasurer shall monitor the financial performance of the organization against criteria established by Board policies.

SECTION 8. The Board may appoint a legal counsel to advise the Board and Executive Committee.

ARTICLE V

Committees

SECTION 1.

A. Subject to the control and direction of the Board, the Executive Committee has general oversight over all questions affecting the policy, property, staff and general purposes of the Foundation. The Executive Committee will avoid usurpation of decision making by the Board. However, during intervals between meetings of the Board, the Executive Committee exercises the power and authority of the Board in the management of the property and affairs of the Foundation, except the power to elect Trustees and officers. The Executive Committee meets as needed, but not fewer than six (6) times a year. To ensure Trustee engagement on matters before the Executive Committee between Board meetings described in Article III, Section 1, agendas for regularly scheduled Executive Committee meetings will be posted for review by Trustees one week in advance of its meetings. Minutes of Executive Committee meetings shall be posted no later than one week following its meetings. The Executive Committee shall report to the Board at meetings described in Article III, Section 1.

In addition to those responsibilities outlined above, the Executive Committee is responsible for overseeing the Foundation's periodic strategic planning process and reviewing the progress of the Board and the President in addressing the long and short-range goals outlined in the resulting plans.

Voting members of the Executive Committee are the Chair, who is chair of the Committee, the immediate past Chair of the Foundation, Vice Chair, Treasurer, and the chairs of the standing committees of the Board. Non-voting members of the Executive Committee are the President and the Secretary. A quorum of the committee is a majority of the voting members.

SECTION 2.

A. The Chair biennially shall appoint Trustees to, and designate the chairs of, the

standing committees of the Board, which are enumerated in subsection B, below. The Chair may also, at their discretion, appoint Vice Chairs for one or more standing committees of the Board. The appointments shall be for the term of the Chair. The Chair may reassign a Trustee to a different standing committee during the Chair's term. The Chair of a standing committee shall report to the Board all significant actions of that committee. All actions of a standing committee are subject to review and approval of the Board, except to the extent the power and authority of the Board is expressly delegated to a committee in these Bylaws or in a resolution or policy adopted by the Board in connection with the creation, implementation or operations of a committee. In no event, however, may the Board delegate to a committee the authority to (1) authorize distributions or (2) approve or recommend dissolution, merger, or the sale, pledge, or transfer of all or substantially all of the Foundation's assets. When duly reported to the Board, acts of a committee to which power and authority have been delegated under this Section, shall stand as acts of the Board.

The Chair of a standing committee may appoint one or more subcommittees to carry out specific tasks for that committee. The President shall designate a Foundation staff member to assist each standing committee in carrying out its responsibilities.

B.

- (1) The Audit/Finance Committee consists of a minimum of five (5) members and is responsible for:
 - (a) Reviewing and recommending Foundation budgets to the Board;
 - (b) Reviewing and approving financial statements, accounting methods and procedures, and related financial matters;
 - (c) Selecting auditors, and reviewing auditors' reports;
 - (d) Reviewing and recommending any borrowing to be undertaken by the Foundation; and
 - (e) Participating in the Foundation's periodic strategic planning process by appointing a Committee member to serve on any special committee formed to lead that process.
- (2) The Investment Committee consists of a minimum of five (5) members and is responsible for:
 - (a) Carrying out the Statement of Investment Objectives as it has been adopted by the Board; and
 - (b) Participating in the Foundation's periodic strategic planning process by appointing a Committee member to serve on any special committee formed to lead that process.
- (3) The Governance Committee consists of a maximum of ten (10) members and is responsible for:
 - (a) Evaluating the Board's performance in all aspects of its work;

- (b) Coordinating educational opportunities for the Board to improve its understanding and knowledge of university-affiliated Foundations;
 - (c) Identifying and cultivating potential candidates for election to the Board;
 - (d) Presenting to the Board an annual slate of candidates for election to the Board;
 - (e) Leading the orientation process for new Trustees and ensuring ongoing mentorship of new Trustees by current Trustees;
 - (f) Assessing the effectiveness of individual Trustee involvement;
 - (g) Recommending Trustees for election to additional terms as allowed in these Bylaws, or for election to Trustee Emeritus status;
 - (h) Nominating Trustees for the offices of Chair, Vice Chair and Treasurer; and
 - (i) Participating in the Foundation's periodic strategic planning process by appointing a Committee member to serve on any special committee formed to lead that process.
- (4) The Marketing and Communications Committee consists of a maximum of ten (10) members and is responsible for:
- (a) Assisting the President in the development, implementation and evaluation of a communications plan to enhance relationships with the University's many constituents and to help create new relationships;
 - (b) Serving as advocates to enhance awareness of the University's priorities, accomplishments and challenges;
 - (c) Reviewing drafts of communications materials to ensure they are consistent with the Foundation's mission; and
 - (d) Participating in the Foundation's periodic strategic planning process by appointing a Committee member to serve on any special committee formed to lead that process.
- (5) The Development Committee consists of a maximum of ten (10) members and is responsible for:
- (a) Developing and recommending an annual fundraising goal in consultation with the President;
 - (b) Both during comprehensive campaigns and outside of campaigns, evaluating the feasibility of proposed fundraising priorities, developing fundraising goals, developing plans for approved priorities, and evaluating the success of the efforts;
 - (c) Coordinating the involvement of the Board in the cultivation, solicitation and securement of annual, major gifts and planned gifts, and participating in the stewardship of donors and prospective donors;
 - (d) Encouraging individual Trustees to contribute to the Foundation at a level that is meaningful to the Trustee; and

- (e) Participating in the Foundation's periodic strategic planning process by appointing a Committee member to serve on any special committee formed to lead that process.
- (6) The Board Gift Acceptance Committee is chaired by the Chair of the Board of Trustees. Other core members shall include the Chair of the Audit/Finance Committee and the Chair of the Development Committee. In addition, the President and the Chief Finance and Operations Officer of the Foundation serve as non-voting members. The Committee is responsible for:
 - (a) The evaluation of proposed gifts and exceptions as outlined in the Gift Acceptance Policy, as well as requests for fee exceptions as outlined in the Fee Assessment Policy.
- (7) The Talent Committee is chaired by the Vice Chair of the Board of Trustees. Membership consists of a minimum of five (5) members responsible for facilitating the creation of a workplace that is recognized as a "high performing, best place to work," where top talent is attracted and motivated to succeed. Specifically, the committee:
 - (a) provides direction and oversight on compensation and benefits for staff to achieve two objectives – recruitment and retention of needed talent;
 - (b) provides direction and oversight on organizational structure and leadership to optimize performance of the Foundation;
 - (c) provides direction and oversight on procedures and policies; and
 - (d) assesses the performance of the President, aligning the focus of the Board, the President, and the staff around a common set of organizational performance goals.

SECTION 3. The Chair may appoint special, temporary committees for a period of not more than two (2) years.

SECTION 4. Upon recommendation of the Governance Committee, the Chair may appoint any Trustee Emeritus to serve as a voting member of a standing committee or special committee for a period not to exceed the term of the Chair. Any Trustee Emeritus serving in such a capacity must (A) comply with the fiduciary responsibilities owed by Trustees to the Foundation and (B) comply with Article XV. Any Trustee Emeritus serving in such a capacity is entitled to the benefits noted in Article XVI.

SECTION 5. Minutes of all committee meetings shall be available to the Board within twenty-one days of the meetings, with the exception noted in Article V, Section 1A.

ARTICLE VI

President

SECTION 1.

- A.** The President is the chief executive officer of the Foundation, is appointed by the Board, and serves at the pleasure of the Board. If the position of President becomes vacant, the Chair, with the consent of the Executive Committee, shall appoint an acting President to perform the duties of the office until the position is filled.
- B.** The duties and responsibilities of the President are to:
 - (1) Oversee the day-to-day operations of the Foundation, including managing the employees of the Foundation;
 - (2) Under the direction of the Chair, coordinate and prepare for meetings of the Board and its committees;
 - (3) Annually prepare and present to the Executive Committee a plan for the operation of the Foundation;
 - (4) Annually prepare and submit to the Audit/Finance Committee a Foundation budget, a statement of expenditures and a revenue projection;
 - (5) Coordinate the work of the Foundation with the University, and maintain regular contact with the President of the University and other University officials;
 - (6) Maintain contact with donors and potential donors to the Foundation;
 - (7) Represent the Foundation at events and functions requiring Foundation representation; and
 - (8) Perform such other duties as are directed by the Board, the Chair and the Executive Committee.

ARTICLE VII

Seal

The corporate seal of the Foundation shall consist of a die with two (2) concentric circles having inscribed in the outer circle "The University of Montana Foundation" and in the inner circle "Corporate Seal."

ARTICLE VIII

Amendments

SECTION 1. The Trustees shall have power to make, alter, amend and repeal the Bylaws of the Foundation by affirmative vote of a majority of the Board present at any regular or special meeting, provided that the proposed action is inserted in the notice of such a meeting. Amendments proposed from the floor at a regular or special meeting by a Trustee may be enacted on an affirmative vote of two-thirds (2/3) of the Trustees present at such a meeting if a quorum is present.

ARTICLE IX

Agents and Representatives

SECTION 1. The Board may appoint such agents and representatives of the Foundation with such powers and to perform such acts or duties on behalf of the Foundation as the Trustees may see fit, so far as may be consistent with these Bylaws, to the extent authorized or permitted by law.

ARTICLE X

Contracts

SECTION 1. The Board, except as these Bylaws otherwise provide, may authorize any officer, agent or senior member of the Foundation staff to enter into any contract, or execute and deliver any instrument in the name of, and on behalf of the Foundation, and such authority may be general or confined to a specific instance; and unless so authorized by the Board, no officer, agent, or employee shall have any power or authority to bind the Foundation by any contract or engagement, or to pledge its credit or render it liable pecuniarily for any purpose or to any amount.

ARTICLE XI

Prohibition Against Sharing in Corporate Earnings

SECTION 1. No Trustee, officer, or employee of, or person connected with the Foundation shall receive, at any time, any of the net earnings or pecuniary profit from the operations of the Foundation, provided that this shall not prevent the payment to any such person of such reasonable compensation for services rendered to, or for, the Foundation in effecting any of its purposes as shall be fixed by the Trustees; and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Foundation. All such persons shall be deemed to have expressly consented and agreed that upon such dissolution or winding up of the affairs of the Foundation, whether voluntary or involuntary, the assets of the Foundation, after all debts have been satisfied, then remaining in the hands of the Trustees, shall be distributed, transferred, conveyed, delivered, and paid over exclusively to the University.

ARTICLE XII

Investments

SECTION 1. The Foundation shall have the right to retain all or any part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it in accordance with the Statement of Investment Objectives as adopted

by the Board. No action, however, shall be taken by, or on behalf of, the Foundation if such action is a prohibited transaction or would result in the denial of the tax exemption under Section 503 or Section 504 of the Internal Revenue Service Code and its Regulations as they now exist, or as they may hereafter be amended.

ARTICLE XIII

Exempt Activities

SECTION 1. Notwithstanding any other provision of these Bylaws, no Trustee, officer, employee or representative of this Foundation shall take any action or carry on any activity by or on behalf of the Foundation not permitted to be taken or carried on by an organization exempt under Section 501(c) (3) of the Internal Revenue Service Code and its Regulations as they now exist or as they may hereafter be amended, or by an organization, contributions to which are deductible under Section 170 (c) (2) of such Code and Regulations as they now exist or as they may hereafter be amended.

ARTICLE XIV

Waiver of Notice

SECTION 1. Whenever any notice is required to be given under the provisions of these Bylaws or under the provisions of the Articles of Incorporation or under the provisions of the Montana Nonprofit Corporation Act, a waiver, in writing and signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. The waiver must be filed with the minutes or corporate records. A Trustee's or other person's attendance at or participation in a meeting waives the Trustee's or other person's right to object to lack of notice or defective notice of the meeting; this shall be true unless the Trustee or other person upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with these Bylaws, objects to lack of notice and does not vote for or assent to that action taken at the meeting.

ARTICLE XV

Conflict of Interest

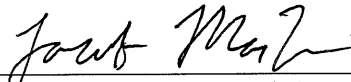
SECTION 1. The Board shall by written resolution approve a conflict of interest and periodic review policy. The purpose of the policy is to protect the Foundation's interest when it is entering into a transaction or arrangement that might benefit the private interest of a Trustee, officer or committee member of the Foundation. The policy will be consistent with and at least as protective as the applicable conflict of interest provisions under Montana law.

ARTICLE XVI

Indemnification

SECTION 1. The Foundation shall, to the full extent permitted by the Montana Nonprofit Corporation Act as it now exists or as it may hereafter be amended, indemnify Trustees and officers against liability and against reasonable expenses incurred by the Trustees or the officers in the defense of any proceeding to which the Trustee or the officer is a party because he or she is or was a Trustee or officer of the Foundation.

Adopted:



Jacob MacLean, Board Secretary
October 4, 2019