



**BY LAWS of the
OLD WESTBURY COLLEGE FOUNDATION, INC.**

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Current as of June 2021

ARTICLE I

TRUSTEES

Section 1. Duties and Powers

The affairs of the Foundation shall be conducted by a Board of Trustees vested with full legal authority for all its decisions and actions. Each Trustee elected has committed to provide financial support in the amount of Five Thousand (\$5,000) Dollars per year, either by direct support or by obtaining commitments from others to fulfill the obligation. Trustees are expected to be present for a majority of Foundation Regular Meetings.

Section 2. Number and Qualifications

The number of Trustees shall consist of not less than three (3) nor more than fifty (50), the number of Trustees to be determined from time to time by resolution of the Board of Trustees, provided that no decrease in the number of Trustees shall shorten the term of any incumbent Trustee. All Trustees must be at least eighteen (18) years of age.

The following shall be ex officio members of the Board: the President of the College; the Chair of the College Faculty Senate; the President of the College Alumni Association; and the President of the Student Government Association. These ex officio members of the Board shall count toward the total number constituting the entire Board of Trustees and hold full voting privileges.

Section 3. Election of Trustees

At any meeting of Trustees, Trustees may be elected to hold office until their term expires and until their successors have been elected. Candidates for election to the Board shall be nominated by the Nominations Committee.

Section 4. Term of Office

With the exception of those Trustees sitting ex officio, Trustees will serve for a term of three (3) years, divided into three (3) classes as equally as possible. There is no limit on the number of terms a Trustee may serve.

Section 5. Voting

Each Trustee of the Foundation shall have one vote. Telephonic or email votes are permitted.

Section 6. Organization

At each meeting of the Board of Trustees, the Chair, or, in the absence of the Chair, a Vice Chair shall preside, or in the absence of either of such officers, a chairperson chosen by a majority of the Trustees present shall preside. The Secretary of the Foundation shall act as secretary of the meeting. In the event the Secretary shall be absent from any meeting of the Board of Trustees, the meeting shall select its secretary.

Section 7. Resignations and Removal of Trustees

Any Trustees may resign at any time by giving written notice to the Chair or to the Secretary. Such resignation shall take effect at the time specified therein or, if no time be specified, then on delivery.

Any or all of the Trustees may be removed for cause by vote of the Trustees provided there is a quorum of not less than a majority of the entire Board of Trustees present at the meeting of Trustees at which such action is taken.

Section 8. Newly Created Trusteeships and Vacancies

Newly created Trusteeships resulting from an increase in the number of Trustees and vacancies occurring in the Board of Trustees for any reason shall be filled by a vote of majority of Trustees then in office, regardless of their number. Trustees elected to fill newly created Trusteeships shall hold office in accordance with their classification and until their successors have been elected and qualified. Trustees elected to fill vacancies shall serve until the next annual meeting at which the election of Trustees is in the regular order of business and until their successors are elected and have qualified.

Section 9. Action by the Board of Trustees

Except as otherwise provided by law or in these By-laws, the act of the Board of Trustees means action at a meeting of the Board by vote of a majority of the Trustees present at the time of the vote, if a quorum is present at such time.

Any action required or permitted to be taken by the Board of Trustees or any committee thereof may be taken without a meeting if all members of the Board or committee consent, either in writing, by email, or telephonically, to the adoption of resolution authorizing the action. The resolution and the written consents thereto by the members of the Board or committee shall be filed with the minutes of the proceeding of the Board or committee.

Any one or more members of the Board of Trustees or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

Section 10. Regular Meetings

Regular meetings of the Board of Trustees will be held quarterly. The Annual Meeting of the Board of Trustees shall be held as close as reasonably can be accomplished to ten weeks after the close of the fiscal year of the Foundation, considering Board member's schedules and completion of the auditor's report required under Article V, Section 3 hereof, for the purposes of reviewing the operation, policies, and annual budget of the Foundation, and such other business as may properly come before the meeting. Notice shall be given not less than fifteen (15) days before the meeting.

Section 11. Special Meetings

Special meetings of the Board of Trustees shall be held whenever called by the Chair, by a member of the Executive Committee, or by any seven (7) of the Trustees. Notice shall be given orally, by facsimile, email or by regular mail and shall state the purposes, time and place of the meeting. Notice shall be given not less than three (3) days before the meeting.

Section 12. Waivers of Notice

Notice of a meeting need not be given to any Trustee who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her.

Section 13. Quorum

Forty percent (40%) of the entire Board of Trustees shall constitute a quorum for the transaction of business. A majority of the Trustees present, whether or not a quorum is present, may adjourn any meeting to another time and place without notice to any Trustee.

Section 14. Compensation

Trustees shall receive no compensation for their services but may be reimbursed for the expenses reasonably incurred by them in the performance of their duties.

Section 15. Honorary Membership Classifications

In order that appropriate recognition is given to extraordinary contributors to the Foundation, non-voting honorary membership may be conferred.

ARTICLE II

COMMITTEES

Section 1. Executive Committee

The Executive Committee shall consist of the Executive Director and two Trustees elected by the Board of Trustees from a slate presented by the Chair and the following serving ex officio: the President of the College; the Chair of the Foundation; the Vice Chairs of the Foundation; the Treasurer of the Foundation; and the Chairs of those committees defined in Article 2, Sections 3 through 7. The Executive Committee shall have all the authority of the Board, except that the Executive Committee shall not have authority as to the following matters:

- (a) The filling of vacancies in the Board or in any committee.
- (b) The removal of a Trustee.
- (c) The amendment or repeal of the By-laws, or the adoption new of By-laws.
- (d) The amendment or repeal of a resolution of the Board which by its terms shall not be so amendable or repealable.

Section 2. Finance Committee

The Finance Committee shall have responsibility to review the finances of the Foundation to ensure that proper procedures are maintained by the staff and others affiliated with the Foundation, to comply with appropriate foundation, corporate, state and federal audit requirements. The Committee shall have responsibility to oversee the endowment funds of the Foundation, to the end that they may be wisely and profitably invested.

Section 3: Audit Committee

The Audit Committee shall provide oversight of the Foundation's internal control structure, accounting and financial reporting practices.

Section 4. Special Committees

The Board of Trustees may designate special committees, each of which shall consist of such persons and shall have such authority as is provided in the resolution designating the committee, except that such

authority shall not exceed the authority conferred on the Executive Committee by Section 1 of this Article.

Section 5. Meetings

Meetings of committees, of which no notice shall be necessary, shall be held at such time and place as shall be fixed by the Chair of the Foundation or the chairperson of the committee or by vote of a majority of all other the members of the committee.

Section 6. Quorum and Manner of Acting

Unless otherwise provided by resolution of the Board of Trustees, a 40% of all of the members of a committee in attendance at the meeting shall constitute a quorum for the transaction of business and the vote of a majority of all of the members of the committee shall be the act of the committee.

Section 7. Tenure of Members of Committees of the Board

Each committee of the Board and every member thereof shall serve at the pleasure of the Board.

Section 8. Alternate Members

The Board of Trustees may designate one or more Trustees as alternate members of the Executive Committee or of any standing committee of the Board, who may replace any absent member or members at any meeting of such committee.

ARTICLE III

OFFICERS

Section 1. Numbers

The officers of the Foundation shall be a Chair, one or more Vice Chairs, a Treasurer, a Secretary and/ or such other officers as the Board of Trustees may determine. Any two or more offices may be held by the same person, except the offices of Chair and Secretary.

Section 2. Term of Office and Qualifications

Those officers whose titles are specifically mentioned in Section 1 of this Article shall be elected by the Board of Trustees at its Annual Meeting occurring every two years on even numbered years. The term of office for each officer shall be for a two-year term to expire upon the election and acceptance of the officer's successor. The Chair and Vice Chairs shall be elected by the Board from among the Trustees.

Section 3. Additional Officers

Additional officers may be elected for such period, have such authority and perform such duties, either in an administrative or subordinate capacity, as the Board of Trustees may from time to time determine.

Section 4. Removal of Officers

Any officer may be removed by a majority vote of the Board of Trustees with or without cause at any time.

Section 5. Resignation

Any officer may resign at any time by giving written notice to the Board of Trustees, or to the Chair or to the Secretary. Any such resignation shall take effect at the time specified therein, or, if no time be specified, then upon delivery.

Section 6. Vacancies

A vacancy in any office shall be filled by the Board of Trustees.

Section 7. Chair

The Chair shall preside at all meetings of the Board of Trustees at which the Chair is present. The Chair shall also perform such other duties as may be assigned from time by the Board. The Chair shall not be an employee of the College.

Section 8. Vice Chairs

In the absence or incapacity to act of the Chair, or if the office of Chair be vacant, the Vice Chair or, if there be more than one Vice Chair, the Vice Chairs in order of seniority as determined by the Board of Trustees, shall preside at all meetings of the Board of Trustees, and shall perform the duties and exercise the powers of the Chair, subject to the right of the board from time to time to extend or confine such powers and duties or to assign them to others. Each Vice Chair shall have such powers and shall perform such other duties as may be assigned by the Board of Trustees or the Chair. The Vice Chairs(s) shall not be an employee or the College.

Section 9. Treasurer

The Treasurer shall, if required by the Board of Trustees, obtain a bond for the faithful discharge of his or her duties, in such sum and with such sureties as the Board of Trustees shall require. The Treasurer shall keep and maintain the books of account and shall have charge and custody of, and be responsible for, all funds and securities of the Foundation, and shall deposit all such funds in the name of and to the credit of the Foundation in such banks, trust companies, or other depositories as shall be selected by the Board of Trustees. The Treasurer shall also perform all the duties customarily incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board of Trustees. The Treasurer need not be a member of the Board.

Section 10. Secretary

It shall be the duty of the Secretary to act as secretary of all meetings of the Board of Trustees, and to keep the minutes of all such meetings in a proper book or books to provided for that purpose; the Secretary shall see that all notices required to be given by the Foundation are duly given and served; the Secretary shall keep a current list of the Foundation's Trustees and officers and their residence addresses; the Secretary shall be custodian of the seal of the Foundation and shall affix the seal, or cause it to be affixed, to all agreements, documents and other papers requiring the same. The Secretary shall have custody of the minute book containing the minutes of all meeting of Trustees, the Executive Committee, and any other committees which may keep minutes, and of all other contracts and documents which are not in the custody of the Treasurer of the Foundation, or in the custody of some other person authorized by the Board of Trustees to have such custody. The Secretary need not be a member of the Board.

Section 11. Executive Director

The Executive Director is appointed through a nomination by the President of the College, followed by an acceptance by majority vote of the Board of Trustees. The Executive Director shall serve at the pleasure of the President until such time as the President proposes a replacement. The Executive Director has the ultimate responsibility of making sure the Foundation accomplishes its goals and objectives. He/she is responsible for the supervision and execution of the day to day operations of the Foundation, including, but not limited to, ensuring all fundraising efforts stay on track by attending fundraising events, overseeing the distribution of scholarships and grants, evaluating the effectiveness of past programs, communications between the College offices and the Foundation Board, and collaborating with internal and external constituents to increase and maintain the Foundation's visibility.

Section 12. Assignment and Transfer of Stocks, Bonds and Securities

The Chair, the Vice Chairs, the Treasurer, the Secretary, and members of the Executive Committee shall have power to assign, or to endorse for transfer, under the corporate seal, and to deliver, any stock, bonds, subscriptions rights, or other securities, or any beneficial interest therein, held or owned by the Foundation. Such transactions will require the approving signatures of an officer (Chair, Vice Chair, Treasurer, Secretary) and a member of the Executive Committee who does not hold office.

ARTICLE IV

EMPLOYEES AND CONSULTING SERVICES

The Board of Trustees shall authorize such additional full-time employees, agents, consultants, part-time employees and other representatives as may be necessary to transact its business. These shall include, but not be limited to, legal counsel, bank trustee, insurance agent, certified public accountant and investment counsel. The remuneration of all employees and consultants shall be determined by the Board in accordance with its spending policies.

ARTICLE V

FINANCIAL

Section 1. Fund Deposits

All funds of the Foundation not otherwise employed shall be deposited from time to time by the Executive Director to the credit of the Foundation in such federally insured banks, trust companies or other depositories as the Board of Trustees may select.

Section 2. Use of Funds

Funds of the Foundation shall be used to build endowments and a basis for future investment income, to fund scholarships and fellowships, to support existing faculty and/or attract new faculty, to fund new or existing college programs, to fund capital projects and/or capital improvements or to attract additional gifts, grants or appropriations to the College and to cover the expenses of fundraising efforts. The Foundation may use a portion of its funds to foster private investment in projects that, though separate from the College, directly serve the overall aims and objectives of the College. For the achievements of its mission, the Foundation may also establish one or more Affiliates as permitted by law. Each Affiliate should be a non-profit corporation organized and existing under the laws of the State of New York and tax-exempt under the IRC, unless a different corporate structure is more appropriate as determined by the Foundation Board.

Section 3. Annual Financial Statement Audit Report

The Foundation and Affiliates must prepare annual financial statements (consolidated or separately issued) in conformity with U.S. generally accepted accounting principles and have an audit conducted by a licensed, independent certified public accounting firm or sole practitioner (independent auditor) in accordance with generally accepted auditing standards. The certified audited financial statements shall be presented at the Board's the Annual Meeting for approval.

Section 4. Surety Bond

At the expense of the Foundation, the Board of Trustees may require the Foundation staff to be included in the provisions of an approved blanket surety bond in an amount to be specified by the Board.

Section 5. Executive of Contracts

The Board of Trustees, except as in these By-laws otherwise provided, may authorize any officer or officers, agent or agents, in the name of and on behalf of the Foundation to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specified instances; but, unless so authorized by the Board of Trustees, or expressly authorized by these By-laws, no officers, agent or employee shall have any power or authority to bind the Foundation by any contract or engagement or to pledge its credit or to render it liable pecuniarily in any amount for any purpose.

Section 6. Loans

No loans shall be contracted on behalf of the Foundation unless specifically authorized by the Board of Trustees.

Section 7. Checks, Drafts, etc.

All checks, drafts and other orders for the payment of money out of the funds of the Foundation, and all notes or other evidences of indebtedness of the Foundation shall be signed on behalf of the Foundation by the executive Director and the Treasurer (or their designee), or in such manner as shall from time to time be determined by resolution of the Board of Trustees.

ARTICLE VI

INDEMNIFICATION AND INSURANCE

Section 1. Authorized Indemnification

Unless clearly prohibited by law or Section 2 of this Article, the Foundation shall indemnify any person ("Indemnified Person") made, or threatened to be made, a party in any action or proceeding, whether civil, criminal, administrative, investigative or otherwise, including any action by or in the right of the Foundation, by reason of the fact that he or she (or his or her testator or intestate), whether before or after adoption of this Section, (a) is or was a Trustee or officer of the Foundation, or (b) in addition is serving or served, in any capacity, at the request of the Foundation, as a Trustee or officer of any other corporation, or any partnership joint venture, trust, employee benefit plan or other enterprise. The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Foundation shall have consented to such settlement) and reasonable expenses, including attorney's fees and costs of investigation, incurred by an Indemnified Person with respect to any such threatened or actual action or proceeding, and any appeal thereof.

Section 2. Prohibited Indemnification

The Foundation shall not indemnify any person in a judgment or other final adjudication adverse to the Indemnified Person (or to the person whose actions are the basis for the action or proceeding) in those instances where the Board of Trustees, in good faith, determines that such person's acts were committed in bad faith or were the result of active and deliberate dishonesty or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

Section 3. Advancement of Expenses

The Foundation shall, on request of any Indemnified Person who is or may be entitled to be indemnified by the Foundation, pay or promptly reimburse the Indemnified Person's reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition. However, no such advancement of expenses shall be made unless the Indemnified Person make a binding, written commitment to repay the Foundation, with interest, for any amount advanced for which it is ultimately determined that he or she is not entitled to be indemnified under the law or Section 2 of this Article. An Indemnified Person shall cooperate in good faith with any request by the Foundation that common legal counsel be used by the parties in such action or proceeding unless it would be inappropriate to do so because of actual or potential conflicts between the interests of the parties. Any retention of counsel must first be approved by the Board.

Section 4. Indemnification of Others

Unless clearly prohibited by law or Section 2 of this Article, the Board of Trustees may approve Foundation indemnification as set forth in Section 1 of this Article or advancement of expenses as set forth in Section 3 of this Article, to a person (or the testator or intestate of a person) who is or was employed by the Foundation or who is or was a volunteer for the Foundation, and who is made, or threatened to be made, a party in any action or proceeding, by reason of the fact of such request of the Foundation in any capacity for any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

Section 5. Determination of Indemnification

Indemnification mandated by an order of a court of competent jurisdiction will be paid. After termination or disposition of any actual or threatened action or proceeding against an Indemnified Person, if indemnification has not been ordered by a court the Board of Trustees shall, upon written request by the Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-laws. Before indemnification can occur the Board of Trustees must explicitly find that such indemnification will not violate the provisions of Section 2 of this Article. No Trustee with a personal interest in the outcome, or who is a party to such actual or threatened action or proceeding concerning which indemnification is sought, shall participate in this determination. If a quorum of disinterested Trustees is not obtained, the Board of Trustees shall act only after receiving the opinion in writing of independent legal counsel that indemnification is proper in the circumstances under then applicable law and these By-laws.

Section 6. Binding Effect

Any person entitled to indemnification under these By-laws has a legally enforceable right to indemnification which cannot be abridged by amendment of these By-laws with respect to any event, action or omission occurring prior to the date of such amendment.

Section 7. Insurance

The Foundation is not required to purchase Trustees' and officers' liability insurance, but the Foundation may purchase such insurance if authorized and approved by the Board of Trustees. To the extent permitted by law, such insurance may insure the Foundation for any obligation it incurs as a result of this Article or operation of law and it may insure directly the Trustees, officers, employees or volunteers of the Foundation for liability against which they are not entitled to indemnification under the Article as well as for liability against which they are entitled or permitted to indemnify by the Foundation.

Section 8. Nonexclusive Rights

The provisions of this Article shall not limit or exclude any other rights to which any person may be entitled under law or contract. The Board of Trustees is authorized to enter into agreements on behalf of the Foundation or advancement of expenses in connection with potential indemnification in addition to the provisions therefore in this Article, subject in all cases to the limitations of Section 2 of this Article.

ARTICLE VII

MISCELLANEOUS

Section 1. Corporate Books and Records

There shall be kept at the office of the Foundation

- (a) correct and complete books and records of account;
- (b) minutes of the proceedings of the Board of Trustees and the Executive Committee;
- (c) a current list of the Trustees and officers of the Foundation and their residence addresses;
- (d) a copy of these By-laws;
- (e) a copy of the Foundation's application for recognition of exemption with the Internal Revenue Service; and
- (f) a copy of the past three years' information returns to the Internal Revenue Service.

Section 2. Seal

The seal of the Foundation shall be in such form as shall be adopted by the Board of Trustees.

Section 3. Loans to Trustees and Officers

No loans shall be made by the Foundation to its Trustees or officers, or to any other corporation, firm, association or other entity in which one or more of its Trustees or officers are Trustees or officers or hold a substantial financial interest except as allowed by law.

Section 4. Fiscal Year

The fiscal year of the Foundation shall commence on July 1 in each calendar year and end on June 30.

ARTICLE VIII

AMENDMENTS

These By-laws may be altered, amended, repealed or added to by an affirmative vote of the majority of the Board of Trustees present at an annual meeting or at a special meeting called for that purpose, provided that a written notice shall have been sent to each Trustee of the Foundation ten (10) days prior to the vote, which notice shall state the alteration, amendments or changes which are proposed to be made in such By-laws.

ARTICLE IX

DISSOLUTION STATEMENT

In the event of dissolution of the Foundation or the termination of its corporate existence, the Board of Trustees shall dispose of all assets of the Foundation, after payment of necessary expenses, to the University or such organization or organizations, similar in purpose, as shall at the time qualify for an exempt organization status under Section 501(c)(3) of the Internal Revenue Code as it may now exist or as it may hereafter exist.

ARTICLE X

CONSTRUCTION

If there be any conflict between the Certificate of Incorporation and these By-laws, the provisions of the Certificate of Incorporation shall govern. All applicable Federal and New York State statutes, including, but not limited to, the Internal Revenue Code and the New York Not-for-Profit Corporation Law, are to be complied with.