

BYLAWS

THE UNIVERSITY OF SOUTH CAROLINA (USC) UPSTATE FOUNDATION, INC.

ARTICLE I NAME

Section 1. NAME The name of this organization shall be the University of South Carolina Upstate Foundation, Inc. (the "Foundation"). The provisions set forth herein comprise the Bylaws of the Foundation (the "Bylaws").

ARTICLE II PURPOSE

Section 1. PURPOSE The Foundation is established to support the University of South Carolina Upstate (the "University") in its educational, instructional, scientific, literary, research, service, charitable, and outreach endeavors. The primary purpose of the Foundation is to solicit, receive, accept and hold, administer, use, invest, endow, and disburse gifts, bequests, devises, and all types of property for the exclusive benefit of the University. The Foundation is dedicated to maximizing support from the private sector for the University to provide a margin of excellence beyond that which could be achieved with state appropriated funds only.

The Foundation is organized and shall operate exclusively for charitable, educational or scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Service Code; and, no part of the net earnings thereof shall inure to the benefit of any private shareholder or individual; provided further, no substantial part of the activities of the Foundation shall consist of carrying on propaganda, or otherwise attempting to influence legislation; provided further, the Foundation shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of a candidate for public office.

ARTICLE III SPECIFIC PURPOSES

Section 1. SPECIFIC PURPOSES

- (a) To build an endowment fund, the net income therefrom to be utilized as directed by the Board of Directors of the Foundation (the "Board of Directors") in accordance with established priorities and donor gift restrictions for the exclusive benefit of the University;
- (b) To assist with a program of annual, major and planned giving with the net proceeds

received, unless otherwise restricted, to be applied to meet annual commitments against unrestricted funds;

- (c) To receive and administer selected grant and contract awards for the purpose of research, instruction, service, outreach, and other priorities of the University or other activities elsewhere by personnel of the University;
- (d) To annually determine, in cooperation with the administration of the University, appropriate projects, programs, and activities of the University to be supported in whole or part with the resources of the Foundation not restricted by donor gift agreements.

Section 2. ACTIVITIES The activities of the Foundation shall be in accord with the purposes as stated in its Articles of Incorporation and these Bylaws.

Section 3. DISSOLUTION In the event of a dissolution of the Foundation, all funds, property and assets shall revert to the University of South Carolina Upstate, or to some other organization which is itself exempt from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, or any other corresponding provision of any future federal tax code or succeeding statute of like tenor and effect, which organization appears most likely to carry out the purposes of the Foundation, or to the Federal, State, or local government for exclusively public purposes.

ARTICLE IV DIRECTORS

Section 1. NUMBER The Board of Directors of the Foundation shall be the representative body of the Foundation and therein shall be vested the entire management of the operations and affairs of the Foundation as described more specifically in Section 5 below. The Board of Directors shall consist of a minimum of eighteen (18) Directors (excluding ex-officio Directors). The number of Directors beyond the minimum shall be determined by the Board of Directors. Those serving on the Board of Directors shall not be employees of the University. Directors of the Board shall be provided for as set forth below:

- (a) Six (6) persons shall serve as ex-officio, nonvoting Directors: (1) the Chair of the Board of the Spartanburg County Commission for Higher Education or designee, (2) the Chancellor of the University (3) the Executive Director of the USC Upstate Foundation, (4) one faculty representative, (5) the Chair of the University's Alumni Board of Directors or designee, and (6) the University's Vice Chancellor for Finance and Administration. Ex-officio Directors of the Board shall have all rights and privileges of other Directors of the Board and are entitled to a vote upon all matters, except in Executive session.
- (b) The Board may, at its discretion, elect Directors from across the Upstate region of South Carolina.
- (c) The persons duly nominated shall be elected by a majority of the Board of

Directors present and voting at any regular, special or annual meeting.

(d) The nominees for the Board of Directors shall be selected from the public at large and have an interest in promoting the purposes of the Foundation. The Foundation seeks to have broad representation across the Upstate region of South Carolina. The Foundation also seeks to have broad representation from its partnership boards and other organizations supportive of the University, but shall not designate any specific seats for such representation.

Section 2. METHOD OF SELECTION The Nominating Committee shall actively seek nominations for directorship from the current Board of Directors, from the University administration, partnership boards, and other supportive organizations. The Nominating Committee shall select and present candidates for consideration by the Board of Directors, and they shall be elected by a majority of the Board of Directors present and voting at a regular, special or annual meeting of the Board, and their terms shall commence on July 1.

Section 3. TENURE Other than ex officio, all Directors shall serve one three-year term and may be elected to serve for one additional three-year term. Directors are eligible for re-election after having been off the Board of Directors for a period of two years. A Director, however, may serve more than two successive complete terms in the case of having been originally elected to the Board to fill an unexpired or partial term. Terms of Directors shall be staggered so no more than one-third of the Board is eligible for election or re-election annually. If a Director fails to attend (in person or by telephone conference call) at least 50 percent of all meetings of the Board during the first term they shall not be eligible for a second term unless it is determined that extenuating circumstances prevented the attendance. The term of a Director serving as an officer or Committee Chair may be extended as long as the Director serves in the current position or is elected to another office.

Section 4. VACANCIES A vacancy on the Board of Directors shall be deemed to have occurred in the event of the expiration of a term of service, death, disability, lack of attendance (as delineated in Section 3 above), at meetings without excuse, resignation or removal of any Director of the Board of Directors. When a vacancy occurs, the new Director(s) shall be elected by the existing Board of Directors by a majority of those present and voting at a meeting, written notice of such election having been given. Any Director may resign; provided, however, such resignation must be in writing and delivered to the Board of Directors, the Executive Director, or the Chair of the USC Upstate Foundation Board. Such resignation shall be effective when the notice is received unless the notice specifies a later effective date.

Section 5. GOVERNING BODY The Board of Directors shall be the governing body of the Foundation, and the entire management of the business and affairs of the Foundation shall be vested therein, including but not limited to formulation of policy in accordance with the purposes of the Foundation. In addition, the Board of Directors shall maintain (i) accurate and complete books and records of account; (ii) custody and responsibility for the property and bonds of the Foundation; and (iii)

control over the Foundation's bank account(s). The Board of Directors shall select a certified public accountant to audit the Foundation's books of account annually and prepare a report (the "Audit Report") for the Foundation. The Board of Directors shall establish operating guidelines for the selection of bank(s) or other depository(ies) wherein shall be deposited and maintained all contributions, donations, dues, or other monies accepted by the Foundation.

Section 6. MEETINGS

- (a) Chair of Meetings. The Chair or the Vice Chair, in the absence of the Chair, of the Foundation Board shall conduct all meetings of the Board of Directors, and notice of such meetings shall be given in accordance with this Section by or at the direction of the Chair or Secretary of the Foundation Board.
- (b) Regular Meetings. Regular meetings of the Board of Directors shall be held on such date, time and place as shall be determined. Notice of the date, time and place of regular meetings shall be given no fewer than ten (10) and no more than thirty (30) days before the date of the meeting.
- (c) Special Meetings. Special meetings of the Board of Directors may be called by the Chair alone, or by the Chair at the request of at least three (3) of the Directors of the Board of Directors. Notice of the date, time and place of each special meeting shall be given no fewer than two (2) days before the date of the meeting.
- (d) Annual Meeting. The annual meeting of the Board of Directors shall be held on such date, time and place as shall be determined. Notice of the date, time and place of the annual meeting shall be given no fewer than ten (10) and no more than thirty (30) days before the date of the meeting. The notice of the annual meeting need not specifically state the business to be discussed at the meeting.
- (e) Actions Requiring Additional Notice. A Board of Directors action to remove a Director requires that each Director be given at least seven (7) days written notice that the matter will be voted upon at the meeting, along with the date, time and place of the meeting, or unless notice is waived in writing in accordance with this Section.
- (f) Form of Notice. Notice shall be given in writing unless oral notice is reasonable under the circumstances. Notice may be communicated in person, by telephone, email, or other form of wireless communication; or by mail or private carrier including specifically campus mail of the University.
- (g) Oral Notice. Oral notice, if reasonable under the circumstances and communicated in a comprehensible manner, is effective when communicated.
- (h) Waiver of Notice. A Director may waive any notice required by these Bylaws, the Articles, or applicable law. The waiver must be in writing, signed by a Director

entitled to notice, and filed with the Foundation records or minutes, and may be executed either before or after the event requiring notice. A Director's attendance at or participation in a meeting waives any required notice unless the Director, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with these Bylaws, the Articles, or applicable law, objects to the lack of notice and does not thereafter vote for or assent to the objected action.

- (i) Emergency Meetings. If the Chair determines that an emergency meeting of the Board of Directors is required to conduct urgent business within a timeframe that does not permit satisfaction of the notice requirements of this Section, the notice requirements shall be waived; provided, however, that the Chair shall make a good faith effort to notify each Director it is practicable to reach regarding the date and hour of such emergency meeting, and the Chair may give such notice by whatever means are practicable under the circumstances, including email or telephone to assure a quorum is assembled.

- (j) Consent Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if the action is taken by all the Directors of the Board of Directors. The action must be evidenced by one or more written consents describing the action taken, signed by each Director of the Board, and included in the minutes of the Foundation filed with the corporate records reflecting the action taken. The action is effective when the last Director signs the consent, unless the consent specifies a different effective date. A consent signed under this provision has the effect of a meeting vote and may be described as such in any document.

- (k) Telephonic/Electronic Meeting. Unless otherwise provided in these Bylaws, any or all Directors may participate in a meeting of the Board of Directors or meeting of any committee by means of conference telephone or any means of communication by which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

Section 7. QUORUM At any meeting of the Board of Directors, at least one half of the total number of voting Directors authorized to serve shall constitute a quorum for the transaction of Foundation business. Except as otherwise set forth herein, if a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present at a meeting shall be the act of the Board of Directors. The Directors present at a meeting may not continue to do business if enough Directors withdraw so as to leave less than a quorum.

Section 8. GUIDELINES The Board of Directors may authorize, amend or restate operating guidelines, plans, practices and procedures from time to time in order to effectively implement the purposes of the Foundation.

Section 9. PERSONNEL The Board of Directors may hire such personnel as it sees fit for the administration of its duties. Personnel shall receive such compensation as the

Board of Directors shall determine and shall serve for such time as the Board of Directors in its sole discretion shall determine. The Board of Directors shall advise the University Chancellor and consent to the hiring and retention of the Executive Director, including an annual performance review.

Section 10. EXECUTIVE DIRECTOR The Vice Chancellor of University Advancement for the University shall also serve as the Executive Director of the USC Upstate Foundation, Inc. unless otherwise voted upon by the Board of Directors.

Section 11. DUTIES The Executive Director of the Foundation shall be responsible for properly carrying out the plans and purposes of the Board of Directors as directed by the Board Chair.

In addition, the Executive Director of the Foundation (i) shall keep the seal of the Foundation, as well as the minutes of all proceedings of the Foundation, including meetings of the Board of Directors and the Executive Committee in one or more books provided for such purpose; (ii) shall maintain a Director roster; (iii) shall prepare and file such reports as may be required by federal, state, and local laws and regulations; (iv) shall be responsible for assuring that all funds of the Foundation are in the proper custody, that correct and complete records of account are kept by the Foundation, and that such financial reports as may be appropriate are presented to the Executive Committee, the University; and (v) shall authenticate records of the Foundation.

ARTICLE V OFFICERS

Section 1. POSITIONS Officers shall be a Chair, Vice Chair, Secretary, Treasurer, and such other offices as the Board of Directors may establish from time to time. No two of these offices may be held by one person at any given time. An officer may serve as a chair of a committee. The officers shall be elected by and from the Board of Directors.

Section 2. METHOD OF SELECTION All officers shall be nominated by the Nominating Committee and shall be elected by a majority of the Board of Directors present and voting at a regular, special or annual meeting.

Section 3. TENURE All officers shall serve for a term of two (2) years or until a successor has been duly elected or appointed in accordance with this Article. Officers are eligible for re-election to that office for one additional term. An officer who is elected to fill a vacancy created by an officer who died, resigned or was otherwise unable to serve, shall serve the remainder of the term of the previous officer. Prior to the expiration of the term of office of any officer, or immediately after an officer's death, resignation, or inability to continue to serve, a successor officer shall be elected by a majority of the Directors of the Board to the office that may be or become vacant. An officer, whose regular term as a director expires before the term of office expires, shall remain an active Director of the Board and may be re-elected to the office.

- Section 4. DUTIES The officers shall perform such duties as are ordinarily incumbent upon their positions, and such other duties as may from time to time be determined by the Board of Directors.
- Section 5. CUSTODY AND MANAGEMENT OF FUNDS The Board of Directors shall designate an appropriate custodian or custodians of its funds and qualified investment counsel.
- Section 6. SIGNATORY AUTHORITY All deeds, contracts and other legal instruments shall be signed by the Executive Director and the Chair of the Board or other duly authorized individuals of the Foundation, in accordance with such operating guidelines, policies and procedures as may be authorized by the Board of Directors including the establishment of such wholly owned corporations or limited liability companies provided such organizations are wholly owned by the Foundation and officers and employees of the Foundation serve as the officers, directors or managers of such organization.
- Section 7. COMPENSATION All officers of the Foundation shall serve without compensation unless otherwise voted upon by the Board.

ARTICLE VI COMMITTEES

Section 1. COMMITTEES

- (a) Committees. The standing committees of the Board of Directors shall be the Executive Committee, Nominating Committee, and Financial Management Committee. The membership and duties of these committees are set forth below. The Chair of the Foundation Board of Directors shall be a Director, ex-officio, of each such committees and shall appoint the chair of each committee (the "Committee Chair") from the membership of the Board of Directors. The Committee Chair shall serve on the committee for the duration of the Director's term or until removal, resignation, or otherwise ceases to qualify as Committee Chair. Vacancies on any committee may be filled for the unexpired portion of the term in the same manner as provided in the case of original appointment. The greater of 50 percent of Directors of any committee shall constitute a quorum and a vote of all of the Directors present at a meeting at which a quorum is present shall be the act of the committee.
- (b) Powers. A committee may exercise the powers and duties delegated to it by the Board of Directors, except that a committee may not be empowered to do any of the following: (1) authorize distributions; (2) approve or recommend to Directors the dissolution, merger, or the sale, pledge, or transfer of all or substantially all of the Foundation's assets; (3) select, appoint, or remove Directors or fill vacancies on the Board of Directors or on any of its committees; or (4) adopt, amend, or repeal the Foundation's Bylaws or Articles.

- (c) Other Committees. In accordance with this Section, the Board of Directors may establish such other committees as they may determine, and which shall have such powers and duties as shall from time to time be prescribed by the Board of Directors, in accordance with the Bylaws. Such committees shall have at least three (3) Directors who shall serve at the pleasure of the Board of Directors. The creation of a committee shall be approved by the greater of: (1) a majority of the Board in office when the action is taken; or (2) the number of Directors required to take action, as set forth in these Bylaws.

Section 2. EXECUTIVE COMMITTEE The Executive Committee shall be composed of the Chair, Vice Chair, Secretary, Treasurer, and three (3) Directors selected from the Board of Directors. The Executive Committee shall make recommendations to the full Board of Directors which must be voted on by the full Board before implementation.

Section 3. NOMINATING COMMITTEE The Nominating Committee shall nominate all Officers as set forth in Article V and all Directors of the Board, except ex-officio, non-voting Directors of the Board, as set forth in Article IV.

Section 4. FINANCE COMMITTEE It shall be the duty of the Finance Committee to:

- (a) Oversee funds of the Foundation. It shall receive and study proposals regarding the needs of the University that might be met by this Foundation and make recommendations to the Board on these matters as well as on the annual budget.
- (b) Hire and set compensation for the independent auditors. The Committee will meet with the auditors no less than annually to review the audit and to receive recommendations to strengthen internal controls and present the audit to the Board of Directors annually.
- (c) Make recommendations relevant to the mutual understandings and policies between the University and the Foundation.
- (d) Review and monitor the investments of the Foundation not less than quarterly, and on such other occasions as they are directed, and to report their findings to the Board of Directors.
- (e) Develop investment policies and practices as deemed prudent to present to the Board of Directors for approval on a regular basis.
- (f) Hire, as it deems necessary, investment consultants and investment managers to assist in these duties.

ARTICLE VII FINANCES

Section 1. RECEIPT OF FUNDS The Foundation may receive income, revenues and property from any source, including but not limited to, contributions, payments, grants, donations, bequests and devises from wills and foundations, receipts and fees for services, gifts of money and other property, and any other funds or assets; provided, however, all contributions, payments and receipts and any donor-imposed conditions associated therewith must be acceptable to the Board of Directors.

Section 2. MANAGEMENT OF FUNDS The funds received, together with the income therefrom, shall be held, retained, managed, conserved, administered, used and applied by the Foundation in the sole discretion of the Board of Directors in accordance with the purposes and provisions of these Bylaws and the S.C. Uniform Prudent Management of Institution Funds Act [SC Code of Laws (1976, as amended) Section 34-6-10, et seq.].

The Board of Directors may accept funds which are qualified, limited or restricted in their use; provided, however, such qualifications, conditions, limitations and restrictions shall not conflict with the purposes of the Foundation as set forth in Article III of these Bylaws and the application and use of funds as provided in Article VII of these Bylaws. Unless otherwise specifically required, such restricted contributions and/or bequests may be mingled with other contributions to the Foundation.

Section 3. USE The Foundation shall hold, manage, invest and reinvest its funds, including but not limited to cash, securities, monies and investments (including stocks, bonds, and obligations), and shall collect and receive the income therefrom. After deducting all necessary expenses incident to the operation and administration of the Foundation, including the payment of any debt service on the obligations of the Foundation, such funds and the income therefrom shall be utilized in accordance with the purposes and provisions set forth in Article III of these Bylaws.

Section 4. EXPENSE The Foundation shall be the sole entity or person responsible for the application and use of its funds, including payment of its administrative expenses. The Foundation shall operate as an independent and autonomous entity for the purpose of meeting its financial obligations.

Section 5. FISCAL YEAR The Foundation shall operate on the same fiscal year as the University. The period of existence of the Foundation shall be perpetual unless terminated in accordance with the dissolution provisions set forth in Article III.

ARTICLE VIII AMENDMENTS

Section 1. AMENDMENTS Amendments to these Bylaws shall be adopted by two-thirds (2/3) vote of the Directors present at any regular meeting after written notice of such meeting has been given to each Director at least ten (10) days prior to the action on such amendment or amendments.

ARTICLE IX INDEMNIFICATION

Section 1. LIABILITY TO FOUNDATION To the extent not inconsistent with the South Carolina Code and other applicable law, no persons shall be liable to the Foundation for loss or damage suffered by the Foundation on account of any action taken or omitted to be taken by such person as an officer or Director of the Foundation in good faith, if such person acted in accordance with assigned duties as set forth in these Bylaws.

Section 2. INDEMNIFICATION

- (a) The Foundation may indemnify a Director or officer of the Foundation made party to a proceeding because the Director or officer against liability incurred in the proceeding if the Director, or others (i) conducted themselves in good faith and (ii) reasonably believed (1) in the case of conduct in his official capacity with the Foundation, that his conduct was in its best interest; and (2) in all other cases, that his conduct was at least not opposed to its best interest and (iii) in the case of a criminal proceeding, had no reasonable cause to believe his conduct was unlawful.
- (b) The Foundation shall not indemnify any person (i) in connection with a proceeding by or in the right of the Foundation in which such person was adjudged liable to the Foundation or (ii) in any other proceeding charging improper personal benefit, whether or not involving action in an official capacity, in which such person was adjudged liable on the basis that the personal benefit was improperly received by such person.
- (c) The Foundation may also reimburse any such officer or Director for the reasonable cost of the final disposition of any action, suit, or proceeding, if such person (i) furnishes the Foundation a written affirmation of good faith belief that the standards of conduct have been met as described in Section 2, paragraph (a) above, (ii) furnishes the Foundation a written undertaking to repay the advance if it is ultimately determined that the person did not meet the standard of conduct, and (iii) a determination is made that the facts then known to those making the determination would not preclude indemnification under South Carolina law.

Section 3. ADDITIONAL RIGHTS The rights of indemnification provided in this Article shall be in addition to any rights to which any such officer or Director may otherwise

be entitled. Irrespective of the provisions of this Article, the Board of Directors may, at any time and from time to time, approve indemnification of Directors, officers, employees or other persons to the full extent permitted by the law of the State of South Carolina, whether on account of past or future transactions.

Section 4. DIRECTOR AND OFFICER INSURANCE The Board of Directors is authorized and empowered to purchase insurance covering the Foundation's liabilities and obligations under this Article and insurance protecting the Foundation's officers, Directors and employees.


ARTICLE X REGULATION AND LAW

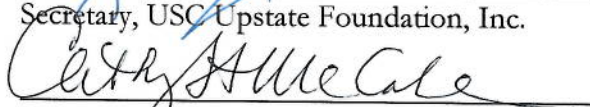
Section 1. SUBJECT TO REGULATORY AUTHORITY The regulation of the business and conduct of the affairs of the Foundation shall conform to Federal and State income tax laws and any other applicable Federal and State law, and such regulation shall be determined by these Bylaws, as amended from time to time. In the interpretation of these Bylaws, wherever reference is made to the United States Code, the Internal Revenue Code, the South Carolina Code of Laws or any other statute, or to any section thereof, such reference shall be construed to mean such Code, laws, statutes, or sections thereof, and the regulations thereunder, as the case may be as heretofore or hereafter amended or supplemented or as superseded by laws covering equivalent subject matter.

Section 2. GOVERNING LAW These Bylaws are executed and delivered in the State of South Carolina and they shall be governed by, construed and administered in accordance with the laws of the State of South Carolina.

I CERTIFY that these Bylaws of the University of South Carolina Upstate Foundation were duly adopted by the Board of Directors of the Foundation at a meeting held on October 22, 2017.

Dated: October 22, 2017



Secretary, USC Upstate Foundation, Inc.


Chair, USC Upstate Foundation, Inc.