

Title 8: Education – Institutions of Higher Learning

Part 3: Bylaws

Chapter 1

301.01 OFFICERS OF THE BOARD

A. PRESIDENT:

There shall be a president elected by the Board from its membership. It is expected that each member of a class of Trustees shall be elected to serve as President, unless a Trustee elects not to serve. A class of Trustees shall consist of those Trustees who take office on the same date, or those whose terms as trustees end on the same date. Each member of the class of Trustees that took office as of May 2004 shall serve eleven months as president, unless he/she elects not to serve. The first Trustee elected as President from the class of Trustees that took office in 2004 shall begin his/her presidential term on May 1, 2011. Each member of the class of Trustees that took office as of May 2008 shall serve ten months as president, unless he/she elects not to serve. Each member of the class of Trustees that shall take office as of May 2012, as well as the members of all subsequent classes, shall serve nine months as president, unless he/she elects not to serve. If a member of a class of Trustees elects not to serve, another member of the class may serve more than one term, if elected. The president of the Board shall preside at all meetings of the Board; he or she shall be an ex officio member of all standing and special committees; he or she shall, with the Commissioner, execute such instruments and contracts as may be ordered by the Board; he or she shall perform such duties as usually pertain to this office and such other duties as may be assigned by the Board; and he or she shall be governed in his action by the usual parliamentary procedure. When the presiding officer has voted and the result is a tie, he cannot vote again to break the tie. The president of the Board may not immediately succeed himself/herself as president after having served a full term.

Miss. Code Ann., §37-101-7, as amended.
(BT Minutes, 9/90; 1/98; 3/2011)

B. VICE PRESIDENT:

There shall be a vice president elected by the Board from its membership. A vice president shall serve until completion of the term of the president that the vice president will succeed. The vice president shall preside at meetings of the Board in the absence or disability of the president.

The vice president of the Board shall automatically succeed to the office of president after having served a term as vice president.

The vice president shall become president upon the resignation, removal, death or incapacity of the president.

(BT Minutes, 9/90, 1/98, 3/2011)

301.02 ELECTION OF OFFICERS

The Board of Trustees shall elect its officers at the meeting of the Board held three months before new officers are to take office, unless no meeting is held during that month. However, the Board may vote, if it so chooses, to hold the election of officers at another meeting of the Board.

(BT Minutes, 9/90; 1/98; 3/2011)

Chapter 2

301.03 BOARD COMMITTEES

- A. The Board by formal action and/or the President may establish standing, special or advisory committees as deemed appropriate to carry out the duties, obligations and functions of the Board. The members and a chair of each are to be appointed by the President and approved by a majority vote of the Board.
- B. These committees may be assisted by the Commissioner and his/her staff.
- C. The committees may meet at such times and locations as deemed appropriate by the designated chairman of the committee.
- D. The respective committees shall report to the Board their recommendations for the consideration of the Board, but committee action or approval is not required prior to approval or action by the Board.

(BT Minutes, 5/90; 1/98; 4/2012)

Miss. Code Ann. § 37-101-15(c)

301.04 BOARD REGULATIONS

- A. The Board shall manage and control:
 - 1. Alcorn State University
 - 2. Delta State University
 - 3. Jackson State University
 - 4. Mississippi State University

5. Mississippi University for Women
 6. Mississippi Valley State University
 7. University of Mississippi
 8. University of Southern Mississippi
- B. The Board shall elect the heads of the various institutions of higher learning and contract with faculty and staff members.
- C. The Board shall terminate the contract of any employee at any time for malfeasance, inefficiency, contumacious conduct, or financial exigency but not for political reasons.
- D. The Board shall make any adjustments the Board thinks necessary between the various departments and schools of any institution or between the different institutions.
- E. The Board shall appoint a Commissioner of the Board who will have the highest qualifications as an administrator and research worker, and shall employ such additional personnel and contract for such services as may be necessary to accomplish the purposes for which the Board was established.
- F. It shall be the duty of each member of the Board to:
1. Periodically visit all of the institutions of higher learning under the jurisdiction of the Board.
 2. Attend functions and events at all institutions.
 3. Inspect the buildings and equipment.
 4. Become informed as to the general business administration and instructional programs.
 5. Meet with the personnel of the institutions.
 6. Gather such other information as may be deemed necessary so as to be qualified to perform the duties of the office.
- G. No public officer or member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any district, county, city, or town thereof, authorized by any law passed or order made by any board of which he/she may be or may have been a member, during the term for which he/she shall have been chosen, or within one year after the expiration of such term.

Miss. Const. Art. IV, Section 109

Miss. Code Ann., §25-4-105(2), as amended.

(BT Minutes, 9/90; 1/98)

Chapter 3

301.05 BOARD MEETINGS AND AGENDA

301.0501 *REGULAR MEETINGS*

There shall be two regular slated meetings of the Board annually, one in June and the other in January.

Miss. Code Ann., §37-101-9, as amended.
(BT Minutes, 5/90; 1/98)

301.0502 *SPECIAL MEETINGS*

There shall be as many special meetings of the Board as may be necessary upon call of the president of the Board or upon call of five members.

Miss. Code Ann., §37-101-9, as amended.
(BT Minutes, 5/90; 1/98)

301.0503 *CALL TO MEETINGS*

The call shall be in writing and shall be mailed by certified letter with return receipt requested, or by certified mail, to each and every member at least five days prior to the date of meeting.

Miss. Code Ann., §37-101-9, as amended.
(BT Minutes, 5/90; 1/98)

301.0504 *DATE OF MEETINGS*

It shall be the general policy of the Board to meet the third week of each month.

(BT Minutes, 5/90; 1/98)

301.0505 *OPEN MEETINGS REQUIREMENTS*

It is the policy of the Board to conduct its meetings pursuant to the provisions of the Mississippi Open Meetings Act.

Miss. Code Ann., §25-41-1, as amended.
(BT Minutes, 5/90; 1/98)

301.0506 *BOARD RECESSES*

The Board may recess itself indefinitely to be reconvened by the president, or it may recess to a time and place designated.

(BT Minutes, 5/90; 1/98; 11/2005)

301.0507 *PLACE OF MEETINGS*

Generally, the Board will hold its meetings at its regular offices; however, the Board may designate as its meeting place any suitable place within the state.

(BT Minutes, 5/90; 1/98; 11/2005)

301.0508 *MINUTES OF MEETINGS*

The Commissioner shall compile and file for safekeeping full and complete minutes of all official acts of the Board. The minutes shall be compiled within a reasonable period after a given action of the Board, bound in a volume, and at the office of the Board made an open document to any citizen of the state during the normal office days and hours of the Board's central office.

(BT Minutes, 5/90; 1/98; 11/2005)

301.0509 *ABBREVIATED MINUTES*

Abbreviated minutes may be used by the Board in dispatching business coming before it, but all official references to the minutes and all transcripts, excerpts, copies, pictures, or quotes shall be made from the full and complete official minutes and the Commissioner shall be the certifying officer thereto for the Board.

(BT Minutes, 5/90; 1/98; 11/2005)

301.0510 *MEETING RULES OF ORDER*

Meetings of the Board and its committees shall be conducted in accordance with controlling statutes and applicable bylaws, regulations, or policies. In the absence of such statutes, bylaws, regulations, or policies, meetings shall be conducted in accordance with these rules and *Robert's Rules of Order*. The Board's Meeting Rules of Order are as follows:

A. Presiding Officer

The President of the Board shall be the presiding officer at official Board functions. In his or her absence, the Vice President of the Board shall preside. In the absence of both, the President of the Board may appoint a President Pro Tempore to preside at a Board function. For committee meetings, the chair of the subject committee shall be the presiding officer. In his or her absence, the President of the Board, who is an ex officio member of all committees, shall preside.

B. Convening Meetings

The Board and its committees shall convene at the times and places announced by public notice and as required by law, policy, or Board action.

C. Quorums, Agenda, Rulings of the Presiding Officer, and Delay

1. Quorums

A quorum for the transaction of business shall be a minimum of eight members of the Board. For committees, a quorum shall be a majority of the members. No business may be transacted without the presence of a quorum.

2. Agenda

The agenda for each Board and committee meeting shall be submitted to the members and published by the Office of the Commissioner of Higher Education prior to each meeting. Proposed agenda items arriving after the deadline for submission to the Commissioner may only be added by a two-thirds (2/3) vote of the members present. This requirement will apply to consideration of all agenda items including recommendations by Board committees in instances where agenda items relating to such recommendations are not submitted prior to the deadline.

The formal agenda will consist of items submitted on behalf of the various institutions and the Board offices. A Board member may notify the Commissioner that an item should be placed on the agenda. Unless otherwise specified on the face of an agenda item, the submission of an agenda item for Board approval by an Institutional Executive Officer or the Commissioner reflects the Institutional Executive Officer's or Commissioner's determination that: (1) the proposed action is authorized by all applicable laws, (2) all requirements of State law and Board policy relating thereto have been met prior to submission of the item, and, (3) adequate funds are available and have been identified for any expenditures

authorized thereunder. The form of agenda items will be determined by the Commissioner. The deadline for submission of agenda items by the Board members to be included on an agenda shall be two days before the date of the official meeting. The Commissioner may refer agenda items to appropriate Board committees for consideration. However, no committee's approval is required before Board consideration of any agenda item or matter.

Agenda Item Placement

The presiding officer may move items up or down the agenda with a two-thirds (2/3) vote by the members present.

3. Delay of Board Consideration

Any member may request a delay in consideration of an agenda item from one meeting to the next, but no agenda item may be so delayed more than once by any member. Such a request shall not be granted if there is a vote to proceed by the lesser of (a) two-thirds (2/3) of the members legally present or (b) by seven (7) Board members legally present.

D. Motion to Suspend Policies, Bylaws or Rules

A member may move to suspend any policies, bylaws or rules. A motion to suspend shall state the matter of business to be considered, must be properly seconded, and shall fail without a vote in favor of same by at least seven members.

(BT Minutes, 5/90; 1/98; 4/2012; 6/2013)

Miss. Code Ann. § 37-101-15(c)

301.0511 *PRESIDENT'S VOTE*

The president of the Board shall be entitled to the same vote as any other member of the Board.

(BT Minutes, 5/90; 1/98; 11/2005)

301.0512 *PERMISSION REQUIRED TO LEAVE MEETINGS*

No member shall absent himself/herself from a meeting of the Board without approved leave from the president.

(BT Minutes, 5/90; 1/98; 11/2005)

301.0513 *APPEARANCES BEFORE THE BOARD*

No person shall be entitled as a matter of right to appear before the Board of Trustees of Institutions of Higher Learning except the following persons:

1. Designated Staff of the Board;
2. Institutional Executive Officers;
3. Official guests invited by the President after consultation with the Board.

Other appearances before the Board are not a matter of right, and will only be considered if the request is material and relevant to any matters then pending before the Board. Any person who desires to be placed on the agenda to address the Board shall submit such request, including justification, in writing to the Commissioner. The request should be at least three weeks prior to the designated Board meeting at which the person desires to appear and set forth the purpose of such appearance. The three week period is necessary to permit referral to the President or appropriate Board committee to rule on such request.

(BT Minutes, 1/91; 1/98; 11/2005)

Chapter 4

301.0804 *RECORDS*

Pursuant to the Mississippi Public Records Acts of 1983 (the "Act"), effective from and after July 1, 1983, the Board hereby adopts the following regulations and procedures with respect to such records as may be in its possession, or in the possession of any university or other institution under its jurisdiction or control. Such rules and procedures are applicable to and shall govern the right to inspect, copy, or reproduce or obtain a reproduction of any public records in the possession of the Board, or any institution under its jurisdiction or control.

- A. Any person wishing to inspect or copy public records must make the request in writing to the agency and must clearly identify the specific information sought. All requests should be dated and include the name of requester, address of the requestor, and current contact information for the requestor. Any response by the Board for a request for access to records will be forwarded to the requesting party within seven (7) working days of the receipt of such request. If the Board is unable to produce the requested record within seven working days after the request is made, the Board shall provide a written explanation to requestor(s) stating that the record will be produced and specifying with particularity why the record(s) cannot be produced within the seven-day period. Absent a mutual agreement between the parties, in no event

shall the date for the Board's production of requested records be any later than fourteen (14) working days from receipt by the Board of the original request.

- B. Denial by the Board of a request for access to or copies of public records shall be in writing and shall contain a statement of the specific exemption relied upon by the Board for the denial. A file of all denials of requests for public records will be maintained by the Board for a period of no less than three (3) years from the date such denials are made.
- C. Recipient(s) will be assisted by a staff member at a charge not to exceed actual costs. Actual costs for search, review and/or possible redaction of information by a staff member will be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task and multiplied by the actual time utilized to complete the task. Recipient(s) will be charged fifteen cents per page for standard black and white photocopies. For all nonstandard photocopies, actual costs of reproduction will be assessed to recipient(s). Records will be available for inspection and copying by appointment during regular working hours (8:00 a.m. - 5:00 p.m.), Monday through Friday, holidays excluded.
- D. Recipient(s) will deposit cash, check or money order in escrow with the staff accountant prior to receiving material. This estimated amount must be sufficient to cover the estimated cost of the staff member's assistance, copying fees, mailing fees, and/or any associated reproduction fees. Recipient(s) desiring information by mail will be charged actual mailing costs in addition to those costs set forth in subsection C.
- E. Adequate space to inspect requested documents will be provided at no cost, if available. Recipient(s) will be provided requested documents by a staff member but no more than two recipients per organization will be assisted at a time.

Miss. Code Ann., §25-61-1 - 17, as amended.
(BT Minutes, 9/90; 1/98; 3/2008; 8/2010)

Chapter 5

301.0806 *University Foundation/Affiliated Entity Activities*

A. Purpose of Foundations and Similar University Affiliated Entities:

This policy shall apply to the relationship between Mississippi public universities ("universities") and university development foundations, research foundations, athletics foundations, alumni associations and all other similar entities affiliated with any of the eight state universities (collectively referred to as the "Foundation/ Affiliated Entities" or "Entities").

The Board of Trustees (hereinafter “Board” or “IHL”) recognizes that such Entities have played and continue to play an important role in providing financial and other support for its institutions. This support has assisted the institutions in achieving a level of excellence not possible through state funding and tuition alone. While the Board of Trustees recognizes and appreciates the contributions made to higher education by such foundations and similar entities, the Board of Trustees reaffirms that the goal of the Entities is not to replace necessary support from the state.

The Board of Trustees also acknowledges that the independent nature of the Entities provides flexibility to state universities in fiscal management and responsiveness.

The primary purpose of the foundations and other entities affiliated with the state universities is to engage in raising and managing funds and/or other activities consistent with the mission and priorities of their respective affiliated institutions, as determined by the Institutional Executive Officer (the "IEO") of each. Each Entity is expected to have a mission statement relevant to this purpose and to adopt policies, plans, and budgets designed to achieve that mission.

The Board fully recognizes the importance to the universities and to the Entities of preserving the confidentiality of information related to donors or potential donors. Providing appropriate confidential treatment for information related to donors who have voluntarily provided funds to support the state universities is in the best interests of this state and its citizens. Thus, it is the policy of the Board that its oversight of the relationship between the foundations and the universities shall be accomplished in a manner that will effectively and appropriately preserve and protect the confidentiality of such information to the fullest extent possible which is consistent with the duty of the universities and the IHL to assure that assets intended to benefit the state universities are appropriately and effectively managed and utilized.

B. Relationship Between Board and Affiliated Entities

As provided in Miss. Const. Art. 8, Section 213-A and Section 31-101-1 of the Miss. Code Ann. of 1972, as amended (the "Miss Code"), the Board of Trustees has governing authority over the eight state universities. Under such authority, the Board of Trustees has responsibility for ensuring that the public interest is served by any individual or organization that is established to support one of the eight state universities.

The Board recognizes that the Entities are not state agencies. The Entities have their own governing authorities. The Board recognizes that it does not have the power to exercise governing control over the Entities.

While the Board of Trustees does not have the power or authority to exercise governing control over the Entities, the Board has the full authority to establish the terms under which state universities will contract with private organizations. That is particularly necessary with respect to these Entities, since they, or some of them, will solicit and manage funds on behalf of and for the benefit of the state universities, and may use the

name, logo, or other insignia identified with the state universities. The Board has the authority to require that any organization that manages funds for any state university, or whose name is associated with a state university under the governance of the Board, must adhere to ethical standards appropriate for such organizations and must properly manage, utilize and account for funds contributed to or for the benefit of the universities.

To ensure the independence of the affiliated Entities, no member or employee of the Board of Trustees of State Institutions of Higher Learning shall hold a voting position on an institutionally affiliated Entity board. The Board of Trustees may allow exceptions to this restriction if needed to comply with NCAA requirements or other proper purposes. Senior administrators of the institution should only participate on the Foundation/ Affiliated Entity's board in an ex-officio capacity.

C. Affiliation Agreements Required

Each university must enter into a formal contractual affiliation agreement (the "Affiliation Agreement") with its development foundation(s), research foundation(s), athletics foundation(s), alumni association(s) and any other similar university affiliated Entity in a form submitted to and approved by this Board. The Affiliation Agreement shall be reviewed for approval by the Board of Trustees at least every five (5) years, or whenever the Affiliation Agreement is changed (other than changes for non-substantive, conforming or purely administrative matters). Affiliation agreements should be signed by the applicable institutional executive officer and by the affiliated entity's board chair and chief executive.

Universities are required to review and update affiliation agreements to comply with any changes to this Policy 301.0806. As stated above, substantive changes to affiliation agreements require IHL Board approval.

In order to appropriately conserve the resources of the universities and the IHL, and to expedite the Board's review of the proposed Affiliation Agreements within the time period set forth above, the IEO's of the universities are expected to direct the resources of their university to work in coordination with the other universities in developing and reviewing templates of proposed affiliation agreements to be used by all similar Entities and universities. Counsel for the Board will be directed to assist in that process. The universities are expected to use those templates insofar as practical, given the acknowledged differences between universities and the Entities, as the basis and pattern for preparing the proposed Affiliation Agreements which are required by this Policy.

D. General Requirements of Affiliation Agreements

The Affiliation Agreements for each Entity shall address and comply with the following general requirements and subjects:

1. Outlining the services and benefits the institution and the Entity are to provide to each other and the compensation or other requirements related thereto;

2. Describing the mechanisms by which the institution shall, through its IEO, keep the Entity apprised of the needs and priorities of the institution, and requiring that the Entity, in concert with donor intent or directives, if any, agree to consider and communicate to the university its ability and plans to fund university needs and priorities, as determined by the IEO;
3. Describing whether, and the terms under which, any institutional assets of the institution itself are to be managed by the Entity on behalf of the institution and providing for appropriate rights of inspection and auditing for such funds by the IHL and all appropriate state officials;
4. Delineation of the terms upon which the Entity is authorized to accept gifts, restricted and unrestricted, on behalf of or for the benefit of the institution;
5. Requiring that the Entity abides by a gift acceptance policy to be jointly endorsed by the university and affiliated entity and describing the method by which the entity will keep the University informed about endowment performance, endowment spending policy, and anticipated accumulation and distribution of funds.
6. Requiring that all gifts made to the university shall be accounted for and ownership maintained by that university, even though they may be managed by the Entity;
7. Requiring that the records of such Entity shall be maintained separately from the records of the respective affiliated institution;
8. Requiring maintenance of financial and accounting records, including thorough documentation of donor intent, in accordance with Generally Accepted Accounting Principles;
9. Requiring that the Entity must cause to be prepared annual financial statements of the condition of the Entity, which shall include such detail as the IHL Board may from time to time require; The Entity must also engage a Certified Public Accounting (CPA) firm to perform annual audits of the Entity's annual financial statements; The Entity shall submit the audited financial statements, along with a list of Entity officers, directors or trustees, not later than five months following the completion of the Entity's fiscal year, to the affiliated university's IEO and to IHL; However, the annual audited financial statements of some of the Entities will be required for inclusion in the State of Mississippi's Comprehensive Annual Financial Report (CAFR); Those Entities which will be required to submit annual audited financial statements for inclusion in the CAFR, as determined by the IHL Board's Associate Commissioner of Finance and Administration and the external auditing firm hired to perform the annual IHL system audit, must submit annual audited financial statements to the affiliated university's IEO and to the IHL, along with a list of Entity officers, directors or trustees, by October 15 of each year; The IHL Board's Associate Commissioner of Finance and Administration shall notify each such Entity of the applicability of the October 15 deadline to such Entity as far in advance of the deadline as possible each year; The CPA firm to be utilized by the Entity must be in good standing with the Mississippi State Board of Public

Accountancy, have substantial experience in auditing like organizations, and must be approved by the IEO or his/her designee; However, at the request of the Entity, the IEO of a university, with the approval of the IHL Board, may grant a request of the Entity to waive the requirement of an annual audit by a CPA firm on a showing of adequate grounds, such as a showing that the assets of the Entity are so limited as to make the expense of engaging a CPA firm to perform an audit financially burdensome to the Entity and unnecessary; Such a waiver may be conditioned upon such other review of the financial records of the Entity in lieu of an audit as the University and the IHL may deem feasible; Such a request for a waiver must be accompanied by (a) the most recent annual audited financial statements of the Entity (if any such statements exist), (b) the financial statements of the most recently completed fiscal year, (c) a written description of how the Entity anticipates that the year-end financial statements for the current year will differ from the financial statements as of the end of the most recently completed fiscal year, and (d) a good faith estimate of the cost of engaging an auditor with respect to the statements; The granting of any request to waive the requirement of an annual audit by a CPA firm approved by the IHL is within the sole discretion of the university and the IHL Board; Any waiver of the audit requirement will apply only for one year, and any request to waive the requirement for the next year should be submitted as outlined above;

10. Requiring that the Entity only accept or solicit gifts for the benefit of the university that are consistent with the university's mission, goals or objectives;
11. Requiring that the Entity manage all funds in its control in a fiscally sound and prudent manner;
12. Requiring that the Entity establish and maintain a conflict-of-interest policy that complies with all requirements of Miss. Code Ann. §79-11-269 (1972) as amended, entitled "Conflict of interest Transaction", university conflict of interest policies, and which addresses transactions with university or entity staff;
13. Requiring that no form of additional compensation for an IEO or any IHL system office employee be underwritten or increased by the Entity without the prior approval of the Board; The request for approval shall come through the Commissioner to the IHL Board; As to other university employees, the Affiliation Agreement will provide that no form of additional compensation may be provided or paid by the Entity without the prior approval by the IEO; All such approvals by the IEO must be reported to the Board of Trustees at its next official meeting; This provision does not apply to transfers from the Entity to the supported university for items such as professorships, chairs, and other programmatic support that are paid directly to the university and included in its annual budget;
14. Requiring the Entity to submit to the IHL an annual report providing a detailed list of supplemental compensation provided to administrators, faculty, athletic staff, and other employees; provided however that the Affiliation Agreement may provide for appropriate exceptions for such compensation made by the institution out of funds routinely provided to the institution to be included in its budget; and,

15. Requiring compliance with all state and federal laws applicable to such organizations.
16. Establishing appropriate maximum limits on the period of time for which the Entity shall enter into contracts for professional, advisory, or other personal services.
17. Requiring that the provisions of the affiliation agreement shall apply to any and all entities owned or controlled by the affiliated Entity, with the exception of a special purpose entity created for the sole and specific purpose of utilization as a financing vehicle for the private financing of university auxiliary facilities by a private developer using the alternate dual-phase design-build privately financed construction method, as specially authorized by Miss. Code Ann. Section 37-101-41, et seq. (1972), as amended. If the use/purpose of any such special purpose entity ever changes, the special purpose entity would then be required to comply with any and all provisions of the affiliation agreement between the university and the Entity which owns or controls the special purpose entity.
18. Affiliation agreements must address the reporting relationship of the chief executive of the affiliated entity and the roles of the IEO and the affiliated entity board in hiring, assessment, compensation and termination decisions related to the entity's chief executive.
19. Requiring that the entity abides by a gift acceptance policy to be jointly endorsed by the university and affiliated entity and describing the method by which the affiliated entity will keep the university informed about endowment performance, endowment spending policy, and anticipated accumulation and distribution of funds.
20. Requiring documentation of donor intent.
21. Requiring that the university ensure that gift funds distributed by the affiliated entity are used in a timely manner in compliance with donor intent and that the university provide affiliated entity staff and auditors access to records and accounts needed to monitor and verify use of gift funds.

E. Affiliation Agreements Shall Require Notice of Certain Events

In addition to the foregoing general requirements, the Affiliation Agreement shall contain provisions requiring that the IHL be notified of certain events or actions that may affect the operations, reputation, legal status, and assets of any entity or any university. The Affiliation Agreement shall require that the chief executive officer of the Entity and its other governing authorities will immediately notify the IEO and the IHL, in writing, if any of the following events (hereinafter "Reportable Events") occur:

1. The Entity has materially breached any of its contractual obligations under the Affiliation Agreement;
2. The Entity has materially failed to properly receive, apply, manage or disburse any funds or has materially failed to properly comply with any binding instructions from donors relating to those funds;

3. The Entity has engaged in any conduct that is prohibited or subject to sanction under state or federal law, including any and all requirements applicable to tax exempt organizations;
4. There has been a failure by the Entity or any of its officers and directors to comply with any conflict of interest requirements created by applicable state or federal law or by the governing documents or procedures of the Entity;
5. Any state or federal regulatory body begins any investigation of any matter that may have a significant financial or regulatory effect on the Entity or upon its status as a tax exempt organization; or
6. The Entity has contracted with or entered into any business or pecuniary relationship with any of its board members, other than a full time employee of the Entity, or any Entity controlled directly or indirectly by the board member, which would reasonably be expected to provide for payment or benefits to that person exceeding the value of \$50,000 in any calendar year; The previous sentence creates a duty for the Entity to report any such transaction but does not suggest or imply that all such transactions are either prohibited or permitted.

The Affiliation Agreement shall require that the chief executive officer of the Entity shall submit to the IEO of the supported university and the IHL a signed certification statement annually, before January 31 of each year, which affirmatively states that the Entity has examined its donor records and business transactions occurring during its fiscal year ending within the prior calendar year, and that to the best of its knowledge, there is no evidence that any Reportable Events occurred, other than those which have been duly reported to the IEO and the IHL as required above. The chief executive officer of each Entity shall re-affirm that, in the event he/she becomes aware of any such Reportable Events, the chief executive officer will immediately notify, in writing, the IEO of the university.

F. Affiliation Agreements Must Require Entity to Provide Certain Additional Information to IEO upon Request

In addition to the foregoing general requirements, the Affiliation Agreement of each Entity will contain provisions requiring that the Entity furnish to the IEO of the corresponding university, or such person as the IEO may designate, any and all information relating to the operation or management of the Entity or any funds contributed to, received by, expended by, or managed by the Entity.

It is the policy of the Board that to the extent that information is inspected, reviewed or received by the IEO or his designees with respect to the identity of donors who have expressly stated they wish to remain anonymous, or with respect to any information relating to the identification, cultivation and solicitation of donors, or with respect to personal information relating to a donor or his/her family business, or trade secrets associated with donors or entity functions (collectively, "Confidential and Trade Secret Information"), such information shall be treated as confidential by the IEO and any designee who may acquire such information. The IEO is expected to take appropriate

safeguards to assure that such information is utilized or disseminated only in a manner that is appropriate under the circumstances.

The IEO shall promptly notify the Board and Commissioner of Higher Education if the Entity refuses or fails to produce any information requested by the IEO.

G. Affiliation Agreement Must Provide for Right of Board to Require Information from Entity or to Examine Records of Entity

Ordinarily, the Board will not request information from any Entity and will allow the IEO to oversee the compliance by the Entity with the Affiliation Agreement and to determine that funds are being appropriately received, managed, and expended. In some circumstances, however, the Board may determine it to be necessary to secure additional information from the Entity or to review appropriate records of the Entity. The Entities hold funds that are intended to benefit the institutions of the state, and the Board has an interest in the proper administration of those funds. Thus, the Affiliation Agreement will provide that the Board may require the Entity to provide information or allow inspection of its records as required by the Board to determine that the Entity is in compliance with the Affiliation Agreement and that the funds held for the institution or for its benefit are appropriately utilized and protected. No such request for information will be made by individual Board members to any Entity or to any IEO.

As a matter of general policy, the Board will attempt, when appropriate, to resolve any issues or concerns about the activities of any Entity informally. Examples of such informal methods include responses by the Entities to requests from the auditors employed by the Board or a report from an accounting firm approved by the Board to review records related to the matters at issue. The decision of any entity as to whether and how to comply with such informal requests is within the discretion of the governing authorities of the entities. The Board anticipates that, normally, any questions related to the Entities can be resolved through such informal procedures.

The Affiliation Agreement shall provide, however, that the Board may determine by appropriate action, at a duly called meeting of the Board, that informal measures are or will be untimely, insufficient, or inappropriate to secure information necessary to allow the Board to determine that the Entity is appropriately complying with the Affiliation Agreement and that funds intended to be used for the benefit of the institution are appropriately maintained and expended. The Affiliation Agreement will provide that, if the Board makes such a finding, the Entity will permit an audit, inspection or review of the financial and other records of the entity by persons selected by the Board, which persons shall have the power to determine the appropriate scope of the investigation and the records to be examined, and that the Entity will fully cooperate with any such inquiries.

As noted above, it is the policy of the Board that it will not unnecessarily disclose or disseminate any Confidential and Trade Secret Information relating to the Entities, and in particular, any information related to donors to the Entity or trade secrets associated with donors or entity functions. In some circumstances, however, such as those involving alleged misuse or misappropriation of funds, appropriately limited disclosure of

information related to donors may be necessary in order to conduct the investigation and to recover the funds, or to allow prosecution with respect to any misappropriation of funds. Thus, the Affiliation Agreement must specifically recognize that the final determination as to the appropriate extent of any disclosure or other use of the information is in the discretion of the Board. Any decision to release any information that would identify any particular donor shall be made by the Board. No individual Board member or employee of the IHL will release such information without authorization from the Board.

H. Asset Distribution Upon Dissolution of Affiliated Entity and Required Termination Provisions to Be Included in Affiliation Agreement

Affiliation Agreements must require that governing documents of the affiliated entity, including but not limited to, articles of incorporation, bylaws, or articles of organization provide that upon dissolution of the entity all of its assets be transferred to the university for one or more public purposes exclusively for the use and benefit of the university or another entity identified by the IEO and approved by the IHL board or identified by the IHL board for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future tax code provided such purposes are exclusively for the use and benefit of the university. Any exceptions to this requirement must be approved by the IHL board.

The Affiliation Agreement will provide that the Affiliation Agreement may be terminated by the IEO with the prior approval of the IHL Board, for specified material non-compliance with or breach of the Affiliation Agreement or applicable policies of the University or IHL. In such cases, the IEO must provide the affiliated entity ninety (90) days' notice and work with the staff and board of the affiliated entity in that period to cure the breach in advance of termination. In the event of termination, the affiliated entity 1) will remit all unrestricted gift funds to the university for one or more public purposes exclusively for the use and benefit of the university or to another entity designated by the IEO for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future tax code provided such purposes are exclusively for the use and benefit of the university, 2) cease to use the university's name or registered marks or logos without the written approval of the IEO, and 3) provide the IHL, the university, or other entity designated by the IHL or IEO with any records, accounts, or other materials requested by the IEO or IHL subject to appropriate restrictions set forth in a confidentiality agreement as to protection of Confidential and Trade Secret Information.

(BT Minutes, 9/93; 1/98; 3/2005; 8/2006; 10/2009; 9/2010, 8/2019)