

# **BYLAWS**

## ***Abilene Christian University***

### **ARTICLE I.**

#### **OFFICES**

The principal office of the corporation in the State of Texas shall be located at Abilene, Texas. The corporation may have such other offices, either within or without the State of Texas, as the Board of Trustees may determine or as the affairs of the corporation may require from time to time.

The corporation shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but does not need to be, identical with the principal office in the State of Texas, and the address of the principal office and the registered office may be changed from time to time by the Board of Trustees.

### **ARTICLE II.**

#### **BOARD OF TRUSTEES**

##### **Section 1: General Powers.**

The affairs of the corporation shall be governed by its Board of Trustees. Trustees need not be residents of the State of Texas.

##### **Section 2: Duties.**

Trustees will discharge their duties, including any duties as committee members, in good faith, with ordinary care, and in a manner they reasonably believe to be in the corporation's best interest. Trustees are not deemed to have the duties of trustees of a trust with respect to the corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

##### **Section 3: Number, Tenure and Qualifications.**

The number of Trustees shall be at least 25 but not more than 35. Each Trustee shall hold office until his or her term expires. The term of office for Trustees shall be three (3) years. If reelected, a Trustee may serve up to five (5) successive terms of three (3) years each. If a Trustee has served five (5) successive three (3) year terms, he or she may be reelected for additional three (3) year terms only after at least one (1) year off the

Board. Each Trustee, at the time of his or her election to the Board and throughout the term or terms of his or her service on the Board, shall be a faithful member of a local congregation of the Church of Christ, in good standing, said standing to be determined by the said congregation.

Section 4: Regular Meetings.

The Board of Trustees may provide by resolution the time and place, either within or without the State of Texas, for the holding of regular meetings of the Board without other notice than such resolution.

Section 5: Special Meetings.

Special meetings of the Board of Trustees may be called by the Chair or at the request of the President or any nine Trustees. The Chair, or in the Chair's absence, any Vice Chair or the President, shall fix the date, time and place of each such meeting and notify all Trustees as required in Section 6 of this Article II.

Section 6: Notice.

Reasonable notice, including the date, time and place, shall be given before all meetings of the Board, regular and special. Any Trustee may waive notice of any meeting. The attendance of a Trustee at any meeting shall constitute a waiver of notice of such meeting, except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law, by the Articles of Incorporation, or by these bylaws.

Section 7: Quorum.

A majority of the Board of Trustees serving at any given time shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the Trustees are present at said meeting, a majority of the Trustees present may adjourn the meeting from time to time without further notice.

Section 8: Manner of Acting.

The act of a majority of the Trustees present at a meeting at which a quorum is present shall be the act of the Board of Trustees, unless the act of the greater number is required by law, by the Articles of Incorporation, or by these bylaws.

Section 9: Vacancies.

Any vacancy occurring in the Board of Trustees whether occasioned by death, resignation, removal, disqualification or expiration of term of office, and any position on the Board filled by reason of an increase in number of Trustees may be filled by the affirmative vote of a majority of the Trustees present at a meeting at which a quorum is present. If the total number of Trustees serving at a given time is less than the minimum number of Trustees then required by Section 2 of this Article II, the vacancies shall be filled by the majority vote of the remaining Trustees.

Section 10: Compensation.

Trustees as such shall not receive any salaries for their services as Trustees, but by policy or resolution of the Board of Trustees expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board. Nothing herein contained shall be construed to preclude any Trustee from serving the corporation in any other capacity and receiving compensation therefore.

Section 11: Special Procedures for Meeting.

- A. Meeting by Telephone. The Board of Trustees, and any committee of the Board of Trustees, may hold a meeting by telephone conference-call procedures or similar communication in which all persons participating in the meeting can hear each other. Participation of a person in a conference-call meeting constitutes presence of that person at the meeting.
- B. Decision Without a Meeting. Any decision required or permitted to be made at a meeting of the Board of Trustees, or any committee of the Board of Trustees, may be made without a meeting as determined by the Board Chair (or committee chair, as applicable). A decision without a meeting may be made if a written consent to the decision is signed or provided electronically (e.g., by email) by a majority of the Trustees entitled to vote on the matter, provided that all such Trustees receive a minimum of five days to consider the matter and vote. Such consent shall have the same force and effect as a vote of such Trustees or committee members, as the case may be. For decisions made by the Board of Trustees without a meeting, the minutes of the next meeting of the Board of Trustees will include a description of the decision and a total of the votes for and against the decision.

Section 12: Removal.

A Trustee may be removed from his or her position as a Trustee or as an officer of the Board of Trustees only for cause and by employing procedures, including due process procedures applicable to private entities, which provide to the Trustee who is subject to a removal action advance notice of the reason(s) giving rise to the removal action by the Board of Trustees and an opportunity to respond to the Trustees present at the meeting of the board at which the removal action is held.

Section 13 Proxy Voting.

A member of the Board cannot be counted present by proxy, nor can any member of the Board vote by proxy at any meeting or on any question before the Board.

Section 14: Conflicts of Interest.

Contracts or transactions between Trustees or officers who have a financial interest in the matter are not void or voidable solely for that reason. However, the Conflict of Interest Policy adopted by the Board, and as it may from time to time be amended by the Board, shall be adhered to in these types of contracts or transactions.

**ARTICLE III.**

**OFFICERS**

Section 1: Officers.

The officers of the corporation to be elected from the membership of the Board of Trustees shall be a Chair, one or more Vice Chairs (the number to be determined from time to time by the Board of Trustees), and such other officers as may be determined by the Board of Trustees. Additional officers of the corporation who need not be members of the Board of Trustees shall be a President, one or more Vice Presidents of the University, including, but not limited to a General Counsel and Vice Presidents with responsibility for the major operational divisions of the University, to-wit: academics, finance and administration, campus life, development, and university relations, an Executive Assistant to the President, and such other officers, such as Chancellor, Secretary, or Assistant Secretary, as may be determined by the Board of Trustees. The specific titles for Vice Presidents shall be those chosen by the President such as, but not limited to, one or more Vice Presidents with responsibility for major operational divisions of the University, an Executive Vice President and a Provost. The President shall be the Chief Executive Officer of the University. In addition, any person serving as interim Chief Executive Officer under Article III, 3.11 hereof is so designated during his or her interim term of office.

Section 2: Election and Term of Office.

The officers of the corporation (except for the Chair of the Board) to be elected from the membership of the Board of Trustees and the President shall be elected annually by the Board of Trustees. The Vice Presidents, Executive Assistant to the President, and other officers of the corporation shall be appointed by the Chief Executive Officer.

The Chair of the Board shall be selected as follows:

- A. A committee consisting of the members of the Nomination and Governance Committee and the Chairs of the other standing committees, not including the Chair of the Board, shall serve to solicit nominations and present candidates to the Board for election.

- B. This committee will begin its work in August, prior to the end of the term of office for the Chair then serving. The committee will solicit suggestions and nominations, not to exceed three (3) per Trustee. All Trustees will be invited to submit nominations. If any member of the committee is nominated and desires to serve as Chair, this Trustee will withdraw from the committee. The committee will consider the responses, interview nominees to ascertain availability to serve, and submit from 2 to 4 names to the Board for selection (unless there is not more than one nominee willing to serve if elected). The presentation to the Board will be at its next regularly scheduled meeting. If no candidate receives greater than 50% of the vote, then the top two candidates will be resubmitted for vote at the meeting to ensure that a 50% majority is attained. If only one candidate is presented, this candidate must receive greater than 50% of the vote to be elected. The Trustee that is selected will be designated Chair-Elect, to serve in a preparatory role until the following February when the three-year term will commence.
- C. The Chair's term is three years. The maximum number of terms as chair is three terms (nine years). Trustees are eligible for election or reelection as Chair as long as they are not in the last year of their term limit as a Trustee. A Chair's three-year term may extend up to two years beyond the Chair's term limit as a Trustee and will supersede such term limit. However, the Chair will not be eligible for reelection as Chair once the term limit as Trustee has been reached.

### Section 3: Removal.

Any officer of the Board of Trustees and any employee of the university directly employed by the Board of Trustees, that is the President, may be removed from office or from employment, as the case may be, by the Board of Trustees at any time by a majority vote of a quorum of the Board of Trustees, but such removal shall be without prejudice to the contract rights, if any, of the employee so removed.

### Section 4: Vacancies.

A vacancy in any office caused by death, resignation, disqualification or otherwise, may be filled by the Board of Trustees for the unexpired portion of the term.

### Section 5: Chair, Board of Trustees.

The Chair of the Board of Trustees shall preside at all meetings of the Board of Trustees and will ensure the integrity and fulfillment of the Board's processes.

### Section 6: Vice Chair, Board of Trustees.

In the absence of the Chair or in the event of the Chair's inability to act, a Vice Chair, in the order of seniority on the Board, shall perform the duties of the Chair, and when so acting shall have all the powers of and be subject to all the restrictions upon the Chair. Any Vice Chair shall perform such other duties as from time to time may be assigned to the Vice Chair by the Chair or by the Board of Trustees.

Section 7: Secretary.

The Secretary or his or her designee shall keep the minutes of meetings of the Board of Trustees and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Chair or by the Board of Trustees.

Section 8: Assistant Secretaries.

In the absence of the Secretary or in the event of the Secretary's inability to act, an Assistant Secretary shall perform the duties of the Secretary, and when so acting shall have all the powers of and be subject to all the restrictions upon the Secretary. Any Assistant Secretary shall perform such other duties as from time to time may be assigned to the Assistant Secretary by the Chair or by the Board of Trustees.

Section 9: Chief Executive Officer.

The Chief Executive Officer shall in general supervise and control all of the business and affairs of the corporation including the responsibility to employ a sufficient faculty and staff for the operation of the University and shall perform such other duties as may be prescribed by the Board of Trustees from time to time.

Section 10: Other Officers.

The Vice Presidents and other officers of the corporation shall perform such duties as shall be assigned to them by the Chief Executive Officer and, in the case of the General Counsel such duties as shall also be assigned by the Board of Trustees.

Section 11: Emergency Replacement of Chief Executive Officer.

In case of the sudden death or disability of the Chief Executive Officer of the University, the following procedure will be followed:

- A. In case of the death of the Chief Executive Officer of the University, the Chair of the Board will immediately assume the duties of the Chief Executive Officer. The temporary assumption of the duties of the Chief Executive Officer will only be effective until a special meeting of the Board of Trustees can be convened.
- B. In case of the disability of the Chief Executive Officer of the University, the Chair of the Board, along with any other two Trustees who are immediately available, will determine when in their judgment the Chief Executive Officer is incapable of fulfilling the responsibilities of such office. Upon making this determination, the Chair of the Board will call a meeting of the Board of Trustees as soon as possible to consider the disability of the Chief Executive Officer and the selection of an interim Chief Executive Officer if the Board determines that the Chief Executive Officer is disabled and unable to continue as Chief Executive Officer of the University.

- C. In case of the simultaneous death or disability of both the Chair of the Board and the Chief Executive Officer of the University, the senior Vice-Chair of the Board of Trustees in length of service on the Board of Trustees will temporarily serve as Chief Executive Officer of the University until a special meeting of the Board of Trustees can be convened. The senior Vice-Chair of the Board of Trustees will call a meeting of the Board of Trustees as soon as possible.
- D. The Board of Trustees will meet to name an interim Chief Executive Officer of the University to serve until the next special meeting or regular meeting of the Board of Trustees.
- E. The Chair of the Board, or, in the Chair's absence, the Senior Vice-Chair of the Board, shall in such officer's discretion call a special meeting of the Board of Trustees or decide to wait until the next regular meeting of the Board of Trustees. At such meeting the Board of Trustees will either approve the selection of the interim Chief Executive Officer or will name another interim Chief Executive Officer, and the Board of Trustees will adopt a plan to search for and employ a new Chief Executive Officer.

## **ARTICLE IV.**

### **BOARD COMMITTEES**

#### *Section 1: Committees.*

Standing committees (if any) will be those designated from time to time by the Board of Trustees in its Policy Manual. Other Board committees may be appointed by the Chair for study, investigative and advisory purposes that support the activities of the Board.

#### *Section 2: Committee Membership.*

Each member of a standing committee shall be appointed, with consultation from the Chair of the Board, by the Nomination and Governance Committee.

#### *Section 3: Chairs.*

One member of each standing committee established by the Board Policy Manual will be appointed annually as Chair by the Board. The Nomination and Governance Committee will submit recommendations to the Board for appointments of committee chairs.

#### *Section 4: Vacancies.*

Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 5: Notice of Committee Meetings.

Reasonable notice shall be given each member of a committee before a committee meeting.

Section 6: Rules.

Each committee may adopt rules for its own government not inconsistent with these bylaws or policies adopted by the Board of Trustees.

**ARTICLE V.**

**CONTRACTS, CHECKS, DEPOSITS, AND FUNDS**

Section 1: Real Estate.

All real estate owned by the corporation shall be designated as follows:

Campus-Related Real Estate  
Investment Real Estate  
Real Estate to be Offered for Sale

“Campus-related real estate” and “investment real estate” shall not be sold or mortgaged except upon resolution duly adopted by the Board of Trustees. In order to facilitate the sale, transfer or mortgage of “real estate offered for sale,” the Secretary, or any Assistant Secretary may execute affidavits stating that certain real estate of the corporation is not designated by the Board of Trustees as either “campus-related real estate” or “investment real estate” and, therefore, is available for sale.

Real estate acquired by gift or purchase which is contiguous (adjacent to or separated only by a thoroughfare) to existing “campus-related real estate” shall be classified as “campus-related real estate.” Non-contiguous real estate acquired by gift or purchase will be classified as “real estate to be offered for sale.” Change in classification to or from “campus-related real estate” or “investment real estate” will be made by resolution of the Board of Trustees.



Section 2: Execution of Documents.

The Chief Executive Officer of the University has authority to execute all contracts, instruments of conveyance in interests in real and personal property, bonds, mortgages, notes or other securities in the name of or on behalf of the University, except where the execution of such instruments shall have been delegated by the Board of Trustees to some other officer or administrative official of the University. The President may also delegate his or her powers concerning the execution of such instruments to any other officer or administrative official of the University through university policy. Unless so authorized, no officer, agent or employee has any power or authority to bind the corporation by any such instrument or to render it liable for any purpose or in any amount.

Section 3: Checks and Drafts.

All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Trustees.

Section 4: Deposits.

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the Board of Trustees may select.

Section 5: Gifts.

The Board may accept, on the Corporation's behalf, any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation. The Board may make gifts and give charitable contributions not prohibited by these Bylaws, the articles of incorporation, state law, and provisions set out in federal tax law that must be complied with to maintain the Corporation's federal and state tax status.

**ARTICLE VI.**

**BOOKS AND RECORDS**

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Trustees and committees having any of the authority of the Board of Trustees, and shall keep at its registered or principal office a record giving the names and addresses of the members entitled to vote.

## **ARTICLE VII.**

### FISCAL YEAR

The fiscal year of the corporation shall begin on the first day of June and end on the last day of May in each year.

## **ARTICLE VIII.**

### AMENDMENTS TO BYLAWS

These bylaws, upon written notice to the Board provided fourteen (14) days prior to the meeting, may be altered, amended, or repealed, and new bylaws may be adopted by a two-thirds majority of the Trustees present at any annual, regular or special meeting. Such notice shall state the nature of the proposed change.

## **ARTICLE IX.**

### INDEMNIFICATION

#### Section 1: Third Party Actions.

The University shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the University) by reason of the fact that such person is or was a trustee or officer of the University, against expenses (including attorneys' fees), judgments, fines, penalties, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person believed to be in or not opposed to the best interests of the University, and with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the University, and with respect to any criminal action of proceeding, had reasonable cause to believe that such person's conduct was unlawful.

#### Section 2: Derivative Actions.

The University shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in right of the University to procure a judgment in the University's favor by reason of the fact that such person is or was a trustee or officer of the University against expenses (including attorneys' fees) and judgments and amounts paid in settlement actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the University, and, with respect to amounts

paid in settlement, the settlement of the suit or action was in the best interests of the University; *provided, however*, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of such person's duty to the University unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as such court shall deem proper. The termination of any action or suit by judgment or settlement shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the University.

### Section 3: Successful Defense.

Notwithstanding any other provision in this Article, to the extent that a trustee or officer of the University has been successful on the merits or otherwise, in whole or in part, in defense of any action, suit or proceeding referred to in Sections of this Article, or in defense of any claim, issue or matter therein, such person shall be indemnified to said extent against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

### Section 4: Authorization.

Any indemnification under this Article shall be deemed to have been duly authorized without further action by the Board of Trustees, special legal counsel, or any other person or persons.

### Section 5: Advances.

Reasonable expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the University, at any time or from time to time, in advance of the final disposition of such action, suit or proceeding upon receipt of a written affirmation by the trustee or officer of a good faith belief that he or she has met the standard of conduct necessary for indemnification under Sections of Article IX and a written undertaking by or on behalf of such person to repay the amount paid or reimbursed if it is ultimately determined that those requirements have not been met. The undertaking to repay amounts paid must be an unlimited general obligation of the trustee or officer but need not be secured.

### Section 6: Non-Exclusivity.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any law, bylaw, agreement, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a trustee or officer and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 7: Insurance.

The University shall have the power to purchase and maintain insurance on behalf of any person who is or was a trustee or officer of the University against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the University would have the power to indemnify such person against such liability.

Section 8: Limitation.

The Board of Trustees may at all times determine how the funds used to indemnify any person subject to indemnification under this Article will be applied in furtherance of the provisions of this Article.

Section 9: Certain Terms Defined.

For the purposes of this Article IX, references to the "University" shall include, in addition to the corporation, any wholly owned subsidiary thereof and any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its trustees and officers so that any person who is or was a trustee or officer of such constituent corporation or of any entity the majority of the voting stock of which is owned by such constituent corporation, or is or was serving at the request of such constituent corporation as a trustee or officer shall stand in the same position under the provisions of this Article with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For the purposes of this Article IX, references to "officer" shall include only those persons who are "officers of the corporation" as provided in Article III of these bylaws.

Section 10: Severability.

It is the intent that the provisions of this Article be consistent with the provisions of Article 1396-2.22A of the Texas Non-Profit Corporation Act. The invalidity or unenforceability, however, of any provision of this Article, or any portion of any provision of this Article, shall not affect the validity or enforceability of the remaining provisions of this Article, or the validity or enforceability of the remaining portion of any provision of this Article, each and all of which shall remain in full force and effect as fully and to the same extent as though the provision or portion of a provision determined to be invalid or unenforceable had never been a part hereof.

## ARTICLE X.

### MISCELLANEOUS PROVISIONS

#### Section 1: Waiver of Notice.

Whenever any notice is required to be given under the provisions of the Texas Non-Profit Corporation Act or under the provisions of the Articles of Incorporation or the bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

#### Section 2: Legal Authorities Governing Construction of Bylaws.

These Bylaws will be construed under Texas law. All references in these Bylaws to statutes, regulations, or other sources of legal authority will refer to the authorities cited, or their successors, as they may be amended from time to time.

#### Section 3: Legal Construction.

To the greatest extent possible, these Bylaws shall be construed to conform to all legal requirements and all requirements for obtaining and maintaining all tax exemptions that may be available to nonprofit corporations. If any bylaw provision is held invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision, and the bylaws will be construed as if they had not included the invalid, illegal, or unenforceable provision.

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