

BY-LAWS

of

ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE FOUNDATION, INC.

Article 1. Authority

1.1 Name of Foundation

The name of the Foundation shall be the Asheville-Buncombe Technical Community College Foundation, Inc.

1.2 Purpose

The purpose of the Foundation shall be to develop and administer a program to promote, support and enhance Asheville-Buncombe Technical Community College. This program shall be consistent with and supplementary to the mission and objectives of Asheville-Buncombe Technical Community College.

1.3 The affairs of the Asheville-Buncombe Technical Community College Foundation shall be managed and controlled by the Board of Directors operating under authority granted in the corporate charter and in accordance with appropriate provisions of North Carolina and federal laws. Hereafter, the Board of Directors will be referred to as the Board.

1.4 Except as hereinafter specifically provided, only the Board of Directors has authority to act upon matters of official concern. Individual members are not empowered to act upon such matters or to speak for the Board unless specifically authorized to do so by the Board acting in its corporate capacity. Such authority will be contained in an appropriate document and attested by the signature of the Secretary of the Board.

Article 2. Membership

2.1 Board of Directors

The Board of Directors shall be composed of not less than eleven (11) or more than thirty-five (35) members. The Executive Director of the Foundation shall serve as an ex-officio member, without voting rights. The membership of the Board should be broadly representative of the college service area. The President and the Chief Financial Officer of the Asheville-Buncombe Technical Community College will be members of the Board. The Chair of the Board of Trustees, or his or her appointee, shall serve as a member of the Foundation Board

of Directors. At all times, a majority of the Board of Directors shall be directors who are not affiliated with the college as employees or as Board of Trustee members.

2.2 Appointment of Members

Members will be elected by the Board and may be presented for election by the Nominating Committee or the Board.

2.3 Terms of Office

Community members shall serve three-year terms with the term beginning January 1 of each year with the exception of members who are employees of the College or College appointments and the Chairman of the Board of Trustees or their appointee. Individuals brought into board membership during the course of a calendar year will be considered to have begun at the start of the calendar year in which they began. All members may serve until replaced or their appointments expire and their replacements are named. Members may be re-elected for successive terms without limitation; however, it is expected sufficient rotation will occur to provide continuity in leadership. If a community member resigns or is removed, any replacement member named, shall serve out that former member's term and then may begin a three year term of their own. The College President, Chief Financial Officer and the Chair of the Board of Trustees or their appointee shall serve as long as they occupy that position.

2.4 Removal and Vacancies

A vacancy occurring on the Board may be filled by majority vote of the members in election at an annual meeting, a regular or at a special meeting called for that purpose. Members may be removed with or without cause by a majority vote of the Board or upon missing more than 50% of all called and regular meetings.

2.5 Compensation

Directors shall serve without compensation for their services, but shall be reimbursed for expenses incurred by and for any authorized business of the Foundation.

Article 3. Officers of the Board

3.1 Officers

The officers of the Foundation shall be a Chair, Vice-Chair, Secretary, and Treasurer and shall be elected by the Board of Directors for a one-year term.

Except for the Secretary and Treasurer, each officer shall hold office no more than two consecutive terms plus any portion of any term not completed by a predecessor. A nominating committee, when appointed by the Chair, will present a slate of candidates at the annual meeting for the election of the Chair, Vice-Chair and the Members-at-Large. No two offices may be held by the same person, and the Chair and Vice-Chair shall be members of the board during the terms to which they are elected. Officers elected by the Board may be removed from office at any time with or without cause by a majority vote of the members of the Board of Directors. The Board may appoint assistants to any of these positions; however, those appointed will not be voting members.

3.2 Compensation

The officers of the Foundation shall serve without compensation but shall be reimbursed for authorized expenses, which they may incur on behalf of the Foundation.

3.3 Powers and Duties of the Chair

The Chair shall be the chief executive officer of the Foundation and subject to the control and management of the Foundation in accordance with these by-laws. The Chair shall preside over all meetings of the Board. The Chair shall have general and active management of the business of the Foundation and shall see that all orders and resolutions of the board are carried into effect. The Chair shall be an ex-officio member of all standing committees. The chair shall be elected for those Directors who are not officials of the College.

3.4 Powers and Duties of the Vice-Chair

The Vice-Chair shall perform the duties and exercise the powers of the office of the Chair in the absence or disability of the Chair. The Vice-Chair shall do and perform such other duties as may be from time to time assigned by the Chair of the Board.

3.5 Powers and Duties of the Secretary

The President of the College shall be the Secretary of the Foundation. The Secretary shall maintain the corporate minutes and other official documents of the corporation.

3.6 Powers and Duties of the Executive Director

Under the auspices of the Board of Trustees, the College President will appoint the Executive Director of the Foundation, who is employed and compensated by the College, and who shall be responsible for performing such general duties as

are necessary for the proper operation and management of the Foundation including the following:

- A. The Executive Director shall be custodian of the minutes of the Board and the Executive Committee meetings and the files and records of the Foundation. The Executive Director shall keep custody of the Seal of the Foundation, if any, and is authorized to affix same to all instruments requiring its use.
- B. The Executive Director shall exercise such authority to accept gifts, collect revenue, and direct expenditures of the Foundation as prescribed by the Board of Directors through its approved policies and directives. In addition, the expenditure of Foundation funds for a specific College purpose or activity must be consistent with the mission and financial resources of the College as determined by the College Board of Trustees and the College President.
- C. The Executive Director shall plan and manage all Foundation programs and activities established to accomplish the goals of the Foundation.
- D. The Executive Director shall be responsible for the supervision of all staff and personnel, if any, engaged by the Foundation.
- E. In cooperation with the Treasurer, the Executive Director will present a budget to the Board for approval at the annual meeting.

3.7 Powers and Duties of the Treasurer

The Treasurer shall be the Chief Financial Officer of the College. The Treasurer shall be responsible for the receipt and disbursement of all assets of the Foundation, in accordance with Board direction, and for insuring that accurate records of all activities are maintained. The Treasurer shall be responsible for monitoring the annual budget as approved by the Foundation Board. The Treasurer shall keep full and accurate accounts of the finances of the Foundation and shall prepare a statement of its financial condition at the close of each fiscal year, which is from July 1 to June 30. The Treasurer will cause an annual audit to be conducted and submit same to the Board. Disbursement of Foundation funds will be made upon the signature of the Executive Director authorized by action of the Board of Directors.

Article 4. Powers and Duties of the Board

The Board of Directors shall have and exercise all powers that may be exercised by the Foundation under its Articles of Incorporation, under pertinent statutes of the State of North Carolina relating to such organizations and as conferred under these By-laws. Without prejudice to these general powers, the Board shall have the following specific powers and duties:

*Amended and approved by the Board of Directors
September 10, 2013*

- A. Appointment of Agents: To appoint and, at its discretion, remove such officers or agents, except for the Executive Director, as it shall deem proper and to prescribe their duties. The appointment and removal of the Executive Director is under the jurisdiction of the President of the College.

B. Committees:

Standing committees of the Board and their duties, in addition to the Executive Committee shall include the following:

- (1) The Board Governance and Nominating Committee which shall oversee By-Laws, policies, procedures, and Nominations, as well issues related to these Board functions.
- (2) The Finance Committee which is tasked with reviewing all Foundation finances including income statements, balance sheets, budgets and investments and advising the Board on best practices and issues related to these functions.
- (3) The Community Engagement Committee which shall work with regional businesses and organizations to improve and further the stature and program of AB Technical Community College for the benefit of the community.
- (4) The Fund Development Committee shall work to cultivate new and existing donors and to develop current and new resources of financial support for the Foundation. The Fund Development Committee may establish or abolish sub-committees, under its supervision, such as an Events, Golf, Board Campaign or other committee as appropriate to carry out necessary activities.

The Board shall, at its discretion, establish such standing and/or ad hoc committees, as it deems appropriate to investigate or discharge any functions assigned by the Board. The Chair of each committee so established shall be appointed by the Chair of the Board.

- C. Business Transactions: To sue and be sued, complain and defend in its corporate name; to borrow money and give its notes or other obligations, therefore; to pledge, encumber or mortgage any property it may own; to sell, convey or dispose of any property it may own to receive and administer funds for scientific and educational purposes; to receive, take title to, hold and use the proceeds and income of stocks, bonds, obligations, or other securities; to take and hold by bequest, devise gift, purchase or lease either absolutely or in trust, any property real, personal or mixed without limitation as to amount or value; to reject any or all gifts, benefits or devises which it deems not in the best interest of the objectives and purposes of the Foundation.
- D. Records: To maintain records of Board proceedings and of the activities of its committees, officers and agents.

- E. Reports: To cause to be prepared annually in writing and to distribute a report of the business and activities of the Foundation

Article 5. Power and Duties of the Executive Committee

- 5.1 Responsibilities: The Board will elect an Executive Committee to serve on behalf of the full Board to execute day-to-day operations as may be necessary in carrying out the duties of the Board.
- 5.2 Election of Members: The Executive Committee shall be made up of the elected officers of the Foundation Board plus two (2) at-large Foundation board members who shall be presented for election by the nominating committee, consistent with the annual election of the Executive Committee. The Board may fill vacancies at times other than the annual election, with a vote of the Board. The previous chair will serve as an ex-officio member of the Executive Committee.
- 5.3 Business Transactions: The Executive Committee shall have and may exercise all the power and authority of the Board of Directors in the management of the business and affairs of the Corporation and may take all actions that the Board may take except amend the By-laws or dissolve the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it.
- 5.4 Minutes: the Executive Committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

Article 6. Meetings

6.1 Meeting Schedule

There shall be an annual Board meeting. Quarterly Board meetings may be held throughout the year. Special meetings may be called by the Board, by the Chair, or upon request to the Chair by a minimum of five current members.

6.2 Rules of Conduct

Meetings will be governed by Robert's Rules of Order.

6.3 Quorum Requirement

A majority of the members of current membership of the Board constitutes a quorum at any meeting.

6.4 Motions

All matters requiring decision by the board shall be presented in the form of a motion. Such motions, when seconded, will be voted upon. Board approval requires a favorable vote by a majority of the quorum. The minutes will reflect the name of the member making a motion, the name of the member seconding, and the results of the vote. Voice vote will normally be used except in matters relating to election of officers or as the Board may otherwise decide.

6.5 Minutes

Minutes, which accurately reflect the events of each meeting, will be prepared by or under the direction of the Secretary and placed in a permanent book, which the Executive Director will maintain on behalf of the Secretary.

Article 7. General Provisions

7.1 Officer and Director Indemnification

It is the policy of this Corporation to attract and maintain responsible, qualified Directors and Officers and to such end, to allocate the risk of personal liability of such Officers and Directors through indemnification and insurance to the fullest extent available and as authorized by Chapter 55A, Article 8, Part 5, of the North Carolina General Statutes.

(a) Except as provided herein and in accordance with the North Carolina General Statutes §55A-8-51 any person who at any time serves or who has served as a Director or Officer of the Corporation shall be indemnified by the Corporation and if such person is made an individual party in a proceeding because such person is or was a Director or Officer of the Corporation, and if such person:

- (1) conducted himself or herself in good faith;
- (2) reasonably believed:
 - (i) in the case of conduct in his or her official capacity with the Corporation, that his or her conduct was in the Corporation's best interest; and,
 - (ii) in all other cases that his or her conduct was at least not opposed to the best interest of the Corporation; and

- (3) in the case of any criminal proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful.
- (b) Notwithstanding the foregoing, this Corporation shall not indemnify an Officer or Director:
 - (1) in connection with any proceeding by in the right of the Corporation in which the Director or Officer was adjudged liable to the Corporation; or
 - (2) in the connection with any other proceeding charging improper personal benefit to the Director or Officer whether or not involving action in his or her official capacity, in which the Director or Officer was adjudged liable on the basis that the personal benefit was improperly received by such Director or Officer.

However, a Director or an Officer may be indemnified by the Corporation in connection with a proceeding by or in the right of the Corporation that is concluded without final adjudication on the issue of liability provided such indemnification is limited to the reasonable expenses incurred in connection with the proceeding.

- (c) In accordance with the North Carolina General Statutes §55-A-8-53 expenses incurred by a Director or Officer in defending a proceeding may be paid by the Corporation in advance of the final disposition of such proceeding as authorized by the Board of Directors in the specific case or by resolution or by contract upon receipt of an undertaking by or on behalf of the Director or Officer to repay such amount unless it shall ultimately be determined that the Director or Officer is entitled to be indemnified by the Corporation against such expenses.
- (d) The Corporation shall not indemnify an Officer or Director in accordance with the authority to indemnify contained in this article 7.1 and under North Carolina General Statutes §55A-8-51 unless authorized in the specific case after a determination has been made that indemnification is permissible in the circumstances because the Director or Officer has met the standard of the conduct set forth herein and under North Carolina General Statutes §55A-8-51. Determination as to indemnification and the reasonableness of expenses shall be made in accordance with the North Carolina General Statutes §55A-8-55.
- (e) In addition to the indemnification provision above, the Corporation may by resolution agree to indemnify any one or more of its Officers, Directors, employees or agents against liability and

expenses in any proceeding arising out of their status as such or their activities in any one of the foregoing capacities, provided, however, the Corporation shall not indemnify or agree to indemnify any Director, Officer, employee or agent against liability or expenses he or she may incur on account of his or her activities which were at the time taken, known, or believed by such person to be clearly in conflict with the best interests of the Corporation or if he or she received an improper personal benefit.

Article 8. Amendment of By-laws

These by-laws may be altered, repealed, amended or added to by a majority vote of all members of the Board at any regular meeting or at any special meeting called for that purpose. Any proposed change in the by-laws must be presented to the Board at least ten business days before the time at which it is formally considered. A particular By-law may be suspended temporarily by unanimous vote of all members present.