

**BYLAWS FOR ODESSA COLLEGE FOUNDATION,
a TEXAS NONPROFIT FOUNDATION
(Revised April 29, 2014)**

ARTICLE I

These bylaws constitute the code of rules adopted by the Odessa College Foundation, Incorporated (Foundation) for the regulation and management of its affairs.

ARTICLE II

Purpose

The Odessa College Foundation, Incorporated shall exist for the purpose of providing charitable and educational aid to Odessa College; to seek and obtain gifts, grants, and other forms of financial support for the advancement of educational undertakings of Odessa College; to endeavor to provide scholarships for exceptional, worthy, needy, and/or deserving students of Odessa College; to provide the means for improvement in instruction and equipment available to students of Odessa College; and to secure funds necessary to the building of an education institution of excellence at Odessa College.

ARTICLE III

Board of Directors

(1) Powers

The Board of Directors (Directors) of this Foundation is vested with the management of the business and affairs of this Foundation, subject to the Texas Business Organizations Code, the Certificate of Formation, and these bylaws. Directors shall exercise ordinary business judgment in managing the affairs of the Foundation and shall act in good faith and take actions they reasonably believe to be in the best interest of the Foundation and that are not unlawful.

(2) Qualifications

Directorships shall not be denied to any person on the basis of race, creed, sex, religion, or national origin. Employees of the Foundation are ineligible to serve on the Board of Directors. Each Director must be a resident of the Permian Basin Area or Odessa College Service Area in Texas, and a citizen of good standing.

(3) Number of Directors

The Board of Directors will consist of at least five but no more than twenty-five Directors. The number of Directors shall be established by resolution passed by the Board of Trustees of Odessa Junior College District ("College Trustees"). Upon majority resolution of the College Trustees, the number of Directors may be increased or decreased from time to time, but in no event shall a decrease have the effect of shortening the term of an incumbent Director, or decreasing the total number of Directors to less than five.

(4) Term of Directors

The basic term of office for each Director shall be three (3) years, and one-third of the Directors shall be elected annually. Upon the initial election of the Board of Directors, the Directors shall choose by lot the terms for which they shall serve so as to comply with the forgoing provisions. The President of Odessa College, Vice President for Business Affairs, and Vice President of Advancement Odessa College shall serve as ex officio members of the Board of Directors.

Directors shall serve terms of three years. A Director may succeed himself for only one consecutive term. After serving two consecutive terms, a Director must vacate his position for at least one year before seeking re-election to another term.

(5) Election of Directors

The Directors shall be affirmed by a majority vote of the College Trustees. Two of the Directors must also be College Trustees. Any College Trustee serving as Director, who ceases to be a College Trustee, shall be deemed to have immediately vacated the position of Director of the Foundation. Elections for Directors filling expired terms shall be held at the last meeting of the fiscal year and are filled by the affirmative vote of a majority of the Board of Directors. When a re-appointment or replacement is made, the re-appointment or replacement shall be considered effective on the date that the prior term expired (i.e., the new term does not begin on the date of the election).

(6) Staggered Terms

There shall be staggered terms of office for Directors so that one-third of the directorships shall be up for election each year (or if the number does not evenly divide by thirds, the board shall be divided as close to thirds as possible).

(7) Resignation

Any Director may resign at any time by delivering written notice to the president of the Board of Directors. Such resignation shall take effect upon receipt or, if later, at the time specified in the notice.

(8) Removal

The College Trustees may vote to remove a Director at any time, with or without cause. A Director may be removed by the affirmative vote of a majority of the College Trustees.

(9) Vacancies

Vacancies shall be filled by majority vote of the remaining members of the Board of Directors, though less than a quorum and the Director filling the vacancy shall serve for the remainder of the term of the directorship that was vacated. Vacancies shall be filled as soon as practical. Any Director may make nominations to fill vacant directorships.

(10) Compensation

Directors shall not receive any salaries or other compensation for their services, but, by resolution of the Board of Directors, may be reimbursed for any actual expenses incurred in the performance of their duties for the Foundation, as long as a majority of disinterested Board of Directors approves the reimbursement. The Foundation shall not loan money or property to, or guarantee the obligation of, any Director.

(11) Advisory Directors

The Board of Directors may from time to time select additional individuals to serve in an advisory capacity to the Board of Directors. The term of an advisory individual shall be for one (1) year unless removed by majority vote of the Board of Directors at any time with or without cause. An advisory individual may participate in discussions of the business of the Foundation, but shall not be entitled to vote on any matter.

(12) Conflict of Interest

- a) The Foundation shall maintain a conflict of interest policy to protect the Foundation's interest when the Foundation is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or Director of the Foundation. These bylaws provisions are intended to supplement, but not replace, any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.
- b) Definitions
 - i. Interested Person: any Director, officer, or member of a committee, who has a direct or indirect financial interest, as defined below, is an interested person.
 - ii. Financial Interest: a person has a financial interest if the person has, directly or indirectly, through business, investment, or family: an ownership or investment interest in any entity with which the Foundation has a transaction or arrangement; compensation arrangement with the Foundation or with any entity or individual with which the Foundation has a transaction or arrangement; or a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Foundation is negotiating a transaction or arrangement.
 - iii. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.
 - iv. A financial interest is not necessarily a conflict of interest. A person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.
- c) Procedures
 - i. Duty to Disclose: In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Directors.

- ii. Determining Whether a Conflict of Interest Exists: After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the Directors meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Directors shall decide if a conflict of interest exists.
 - iii. After exercising due diligence, the Directors shall determine whether the Foundation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
 - iv. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Directors shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Foundation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.
- d) Violations of the Conflicts of Interest Policy
- i. If the Directors have reasonable cause to believe a Director has failed to disclose actual or possible conflicts of interest, it shall inform that Director of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
 - ii. If, after hearing the Director's response and after making further investigation as warranted by the circumstances, the Directors determine the Director has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.
- e) Periodic Reviews
- i. To ensure the Foundation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:
 - A. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.
 - B. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Foundation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

ARTICLE IV
Committees

(1) Executive Committee

The President of the Foundation shall constitute the executive committee. The executive committee shall have the authority to act on behalf of the Foundation in between Regular Meetings of the Board of Directors. The Board of Directors must validate the actions of the executive committee at its next Regular or Special Meeting. Any such action not so validated will not be legally binding on the Foundation. The President shall act as chairperson of the executive committee. A majority of the Executive Committee shall constitute a quorum for the transaction of business, and all decisions shall be by majority vote of those present.

(2) Standing Committees

The Foundation shall have five standing committees which shall assist the Board of Directors in carrying out the management of the Foundation: The Investment/Audit Committee, the Board Development Committee, the Scholarship Committee, the Policies & Procedures/By-Law Committee and the Fundraising Committee. The Board of Directors shall appoint the members of each committee. Each standing committee shall have at least three Directors as members, and the Directors must comprise a majority of the committee membership. Employees of the Foundation and members of the community may also be appointed to serve as ex-officio committee members. Committees shall meet upon call of the Board of Directors or the chair of the Committee, review the activities of the Foundation in the Committee's respective areas, and make recommendations to the Board of Directors for the Board's final approval. Standing committees shall elect a Chair by a majority vote. The Chair of each committee shall ensure that minutes of the committee meetings are taken and present a copy of the minutes to the Foundation office within the two weeks following the meeting. Committee meetings shall be open to all members of the Board of Directors.

- a) The Investment/Audit Committee shall be responsible for the oversight of the Foundation investment portfolio, completion of IRS Form 990, work with external Investment Managers, and generally protect the soundness of the Foundation's finances and fiscal operations.
- b) The Board Development Committee shall be responsible for development of the slate of officers and recommendations, as proposed by current board members and Odessa College Administration, for new or returning directors.
- c) The Scholarship Committee shall be responsible for setting the criteria for the Student Success Scholarship, organization of the annual board campaign and serve as an appeals committee when necessary for student.
- d) The Policies & Procedures/By-Law Committee shall make recommendations to the Board for Amendment to the by-laws and policies and procedures of the Foundation.

e) The Fundraising Committee shall be responsible for the development of a plan to maintain current and future donors; review all previous year fundraising activity including annual appeal and make recommendations for improvements for new fiscal year; work with staff and outside consultants as required to plan and execute fundraising and friend-raising events; and determine Board fundraising expectations and goals.

(3) Additional Committees

The Board of Directors may from time to time designate and appoint additional standing or temporary committees by majority vote of the Board of Directors. Such committees shall have and exercise such prescribed authority as is designated by the Board of Directors. The Directors may authorize these committees to exercise any powers, responsibilities, and duties consistent with the Certificate of Formation and these bylaws.

ARTICLE V
Code of Ethics

The Foundation and its Directors and Employees will comply with the Association of Fundraising Professional's Code of Ethics, attached as Exhibit A.

ARTICLE VI
Board Meetings

(1) Place of Board Meetings

Regular and Special Meetings of the Board of Directors will be held at Odessa College or at any other place, within or outside the state of Texas, that the President may designate.

(2) Regular and Special Meetings

Regular meetings of the Board of Directors shall be held each quarter, or more frequently as deemed necessary by the Board of Directors. Special Meetings may be called by the President or any two Directors.

(3) Notice of Board Meetings

Notice of the date, time, and place of Regular and Special Meetings shall be given to each board member by regular mail, telephone (including voice mail), facsimile, or e-mail no less than two (2) days nor more than thirty (30) days notice prior to the meeting.

(4) Waiver of Notice

Attendance by a Director at any meeting of the Board of Directors for which the Director did not receive the required notice will constitute a waiver of notice of such meeting unless the Director objects at the beginning of the meeting to the transaction of business on the grounds that the meeting was not lawfully called or convened.

- (5) Quorum**
A majority of the incumbent Directors (not counting vacancies) shall constitute a quorum for the purposes of convening a meeting or conducting business. At Board meetings where a quorum is present, a majority vote of the Directors attending shall constitute an act of the Board.
- (6) Actions without a Meeting**
Any action required or permitted to be taken by the Board of Directors under the Texas Non-Profit Foundation Act, the Certificate of Formation, and these bylaws may be taken without a meeting, if a majority of Directors individually and collectively consent in writing, including a mailed or electronic format, setting forth the action to be taken. Such written consent shall have the same force and effect as a unanimous vote of the Board.
- (7) Open Meetings**
Meetings shall be open to the general public, except when personnel, real estate, or litigation matters are being discussed. However, the meetings of the Foundation are not subject to the Texas Open Meetings Act.
- (8) Proxy Voting Prohibited**
Proxy voting is not permitted.

ARTICLE VII

Officers

- (1) Roster of Officers**
The Foundation shall have a President and a President-elect. The Foundation may have, at the discretion of the Board of Directors, such other officers as may be appointed by the Directors. The Treasurer, the chief financial officer of Odessa College, shall be an ex-officio officer.
- (2) Election and Removal of Officers**
All officers shall serve one-year terms. The election shall be conducted at the Board of Directors' last meeting of the fiscal year and following the election of the new Board of Directors filling expired terms, or as soon as practical thereafter. Officers shall remain in office until their successors have been selected. Officers may serve consecutive terms without limit. The election of officers shall be by majority vote of the Board of Directors attending the meeting. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors with or without cause.
- (3) Vacancies**
If a vacancy occurs during the term of office for any elected officer, the Board of Directors shall elect a new officer to fill the remainder of the term as soon as practical, by majority vote of Directors present.

(4) President

- * The President will supervise and control the affairs of the Foundation and shall exercise such supervisory powers as may be given by the Board of Directors.
- * The President will perform all duties incident to such office and such other duties as may be provided in these bylaws or as may be prescribed from time to time by the Board of Directors. The President shall preside at all board meetings and shall exercise parliamentary control in accordance with Roberts Rules of Order.
- * The President shall serve as an ex-officio member of all standing committees, unless otherwise provided by the Board of Directors or these bylaws.
- * The President shall, with the advice of the Board of Directors and in accordance with the requirements of these bylaws, set the agenda for each meeting of the Board of Directors.

(5) President-Elect

- * The President-elect shall act in place of the President in the event of the President's absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required by the board.
- * The President-elect shall serve as the parliamentarian and interpret any ambiguities of the bylaws.
- * The President-elect will follow the President's term of office.

(6) Treasurer

- * The Treasurer shall be the chief financial officer of Odessa College.
- * The Treasurer will have charge and custody of all funds of the Foundation, will oversee and supervise the financial business of the Foundation, will render reports and accountings to the Directors as required by the Board of Directors, and will perform in general all duties incident to the office of Treasurer and such other duties as may be required by law, by the Certificate of Formation, or by these bylaws, or which may be assigned from time to time by the Board of Directors.
- * The Treasurer and the staff of the Foundation shall devise a plan providing for the acceptance and disbursement of all funds of the Foundation which shall be approved by the Board of Directors.
- * The Treasurer, with the approval of the Board of Directors, shall set up all checking, savings, and investment accounts of the Foundation and deposit all such funds in the name of the Foundation in such accounts.
- * The Treasurer's signature shall be the authorized signature for all checking, savings, and investment accounts of the Foundation unless the Treasurer, with the approval of the Board of Directors, designates another member of the Board of Directors or employee of the Foundation as the authorized signatory for a particular type of disbursement.
- * The Treasurer shall prepare a monthly report for the Board of Directors, providing an accounting of all transactions and of the financial conditions of the Foundation.
- * The Treasurer shall keep all financing records, books, and annual reports of the financial activities of the Foundation at the principal office of the Foundation and

make them available at the request of any Director or member of the public during regular business hours for inspection and copying.

ARTICLE VIII
Rules of Procedure

The proceedings and business of the Board of Directors shall be governed by Robert's Rules of Order unless otherwise provided herein.

ARTICLE IX
Executive Director

The Vice President of Advancement shall be the Executive Director for Resource Development for Odessa College and shall administer the affairs of the Foundation on a daily basis according to the policies and resolutions of the Board of Directors and these by-laws. This shall include, but not limited to, carry out all administrative duties incident to the administration of the Foundation and the execution of contracts on behalf of the Foundation with the approval or satisfaction of the Board of Directors. The Executive Director shall also perform other duties and have such authority and powers as the Board of Directors may from time to time prescribe by resolution. The Executive Director shall serve as a staff member to the Board of Directors and all committees and will generally perform such duties as normally performed by an Executive Director. The Foundation may, at its discretion and with approval of the Board of Directors, provide a grant to Odessa College as a salary supplement to the compensation of the Executive Director of Resource Development.

ARTICLE X
Indemnification

(1) Indemnification

To the extent permitted by law, any person (and the heirs, executors, and administrators of such person) made or threatened to be made a party to any action, suit, or proceeding by reason of the fact that he is or was a Director or Officer of the Foundation shall be indemnified by the Foundation against any and all liability and the reasonable expenses, including attorney's fees and disbursements, incurred by him (or by his heirs, executors or administrators) in connection with the defense or settlement of such action, suit, or proceeding, or in connection with any appearance therein.

(2) Limits on Indemnification

Notwithstanding the above, the Foundation will indemnify a person only if he acted in good faith and reasonably believed that his conduct was in the Foundation's best interest. In the case of a criminal proceeding, the person may be indemnified only if he had no reasonable cause to believe his conduct was unlawful.

ARTICLE XI
Operations

(1) Execution of Documents

Unless specifically authorized by the Board of Directors or as otherwise required by law, all final contracts, deeds, conveyances, leases, promissory notes, or legal written instruments executed in the name of and on behalf of the Foundation shall be signed and executed by the Executive Director and the President (or such other person designated by the Board of Directors), pursuant to the general authorization of the Board. All conveyances of land by deed shall be signed by the President or the President-elect and must be approved by a resolution of the Board of Directors.

(2) Procurement Policy

The Foundation shall abide by Odessa College's procurement policy.

(3) Records

The Foundation will keep correct and complete records of account and will also keep minutes of the proceedings of the Board meetings and Committees. The Foundation will keep at its principal place of business the original or a copy of its bylaws, including amendments to date certified by the President of the Foundation and all other documents as required by law.

(4) Inspection of Books and Records

All books and records of this Foundation may be inspected by any Director for any purpose at any reasonable time on written demand.

(5) Loans to Management

The Foundation will make no loans to any of its Directors or Officers.

(6) Amendments

The Board of Directors may adopt amendments to the Certificate of Formation by a vote of two-thirds of Directors present at a meeting where a quorum is present. The bylaws may be amended at any time by a vote of the majority of Directors at a meeting where a quorum is present.

(7) Fiscal Year

The fiscal year for the Foundation will be the calendar year, January 1 to December 31.

(8) Audit

The Foundation shall have an annual audit to be completed by August of each year for the previous fiscal year.

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CERTIFICATION

I hereby certify that these bylaws were amended and adopted by the Board of Directors of the Odessa College Foundation, Incorporated at its meeting held on April 29, 2014.

President