

**BY-LAWS**  
**of**  
**Florida Polytechnic University Foundation, Inc.**  
A Florida Not-for Profit Corporation

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**ARTICLE 1. PURPOSE**

Florida Polytechnic University Foundation, Inc. is organized and shall be operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of Florida Polytechnic University (the "University") by encouraging alumni and friends to provide private funds and other resources for the University's benefit, to manage those assets, to provide volunteer leadership in support of the University's objectives and to perform all business matter to accomplish these purposes. support and enhance Florida Polytechnic University by encouraging alumni and friends to provide private funds and other resources for the University's benefit, to manage those assets, to provide volunteer leadership in support of the University's objectives and to perform all business matters to accomplish these purposes.

The Corporation is to be operated as a university direct support organization, as defined in Section 1004.28, Florida Statutes, or the corresponding provision of any future Florida state law.

The Corporation shall support the educational purposes of Florida Polytechnic University and shall promote, encourage and assist charitable and educational aid in forms of financial contributions, property and any forms of services and support allowed by law. The Corporation may also promote, encourage and assist research and training activities of faculty, staff and students at Florida Polytechnic University through income from contracts, grants, contributions and other sources, including, without limitation, income derived from or related to the development and commercialization of Florida Polytechnic University work products. The Corporation will promote education and other related activities and will encourage research and research programs, learning, and dissemination of information pertaining to University activities and those organizations in which the Association is associated. Additionally, the Corporation shall be entitled to conduct business for or on behalf of Florida Polytechnic University within the meaning of Section 501(c)(3) and Section 170 (c) of the Internal Revenue Code of 1986 (or the corresponding provisions of any future Internal Revenue Law).

In order to prosecute properly the objects and purposes set forth above, the Corporation shall have full power and authority to purchase, lease, and otherwise acquire, hold, mortgage, convey and otherwise dispose of all kinds of property; and to invest, administer and use the money and property of the Corporation, and any and all income derived therefrom, for any one or more of the purposes provided herein; provided, however, that no such powers shall be exercises in a manner which is not consistent with

Section 501 (c)(3) of the Internal Revenue Code (or the corresponding provision of any future Internal Revenue Law).

## **ARTICLE 2. DEFINED TERMS**

Capitalized terms used in these By-laws shall have the meanings ascribed to them as set forth below.

1. "Board" means the Board of Directors of the Foundation.
2. "Board of Trustees" means Florida Polytechnic University's Board of Trustees.
3. "Directors" means Elected Directors, Life Members, and Ex-officio Directors.
4. "Elected Directors" are those directors confirmed by the University President and elected by the Board.
5. "Ex-officio Directors" means the Directors listed in Article 4, Section 4.
6. "Executive Officers" shall mean the Executive President, Executive Vice President, and other executive officers appointed by the Board.
7. "For cause" means actions or omissions that may adversely reflect on the interests or reputation of the Foundation or the University, as determined by the University President after consulting with the Board of Directors. Any such determination may be made by the University President at any time and need not depend on the conclusion of any external determination or process.
8. "Foundation" means Florida Polytechnic University Foundation, Inc.
9. "Life Members" are those Directors confirmed by the University President and elected by the Board for life in accordance with Article 4, Section 6.
10. "Officers" means the Foundation Chair, Vice Chair, Secretary, Treasurer, and any other officers deemed necessary by the Board.
11. "Unacceptable performance" means a persistent failure to fulfill duties of the position to high standards and in a manner that serves the best interests of the Foundation and the University, as determined by the University President after consulting with the Board of Directors.
12. "University" means Florida Polytechnic University.

13. "University President" means the President of Florida Polytechnic University.

### **ARTICLE 3. OFFICES**

The principal office of the Foundation shall be located in Lakeland, Polk County, Florida.

### **ARTICLE 4. BOARD OF DIRECTORS**

**Section 1. Number.** The initial Board is comprised of three board members named by the Incorporator. The Board shall be composed of Elected Directors, Ex-officio Directors, and Life Members described in Sections 3, 4, and 5 below. The Board shall, at all times, have at least three Directors and no more than forty-five Elected Directors.

**Section 2. Duties.** The role of the Directors is to assist in raising private funds and other resources for the University, to continue their personal financial support for the University, and to participate in governance of and advocacy on behalf of the Foundation.

**Section 3. Selection of Elected Directors.** Candidates for Elected Directors shall be reviewed by a Nominating Committee appointed by the Chair, subject to confirmation by the University President and election by the Board.

**Section 4. Ex-officio Directors.** The Ex-officio Directors are full voting members of the Board and shall include, where applicable:

1. Three appointees of the University Board of Trustees (4-year terms);
2. The University President;
3. The University Student Body President.
4. Up to four University deans, directors or faculty members as appointed by the University President (4-year terms).

#### **Section 5. Foundation Life Members.**

Candidates for Foundation Life Members shall be reviewed and approved by election of the Board, subject to confirmation by the University President. Life Members are voting members of the Board. Criteria to be considered as a Foundation Life Member shall include the following:

1. Completion of two four-year terms on the Board;
2. Minimum of \$1 million gift or \$1 million irrevocable gift commitment; and
3. Exemplary commitment to the mission, vision, and objectives of the University and Foundation.

The number of Life Members shall be limited only by the high standards to be used in their selection to assure that this honor be extended to persons of extraordinary merit and distinction.

## **Section 6. Terms of Office.**

**a. Elected Directors.** An Elected Director shall hold a <sup>1</sup>two, three, or four year term, assigned by the Board, commencing on the effective date of appointment and continuing through the meeting closest to the end of the assigned term, and is not eligible to serve more than eight years consecutively. An Elected Director who has served eight years consecutively may be re-elected to the Board after the expiration of one year following the end of his or her last term and shall have the status of a new Director. Vacancies occurring during a term shall be filled for the unexpired portion in the manner provided for the election of Directors. Where a person fills a vacancy with less than one half of the term remaining, the person's years of service spent filling such vacancy shall not be counted for purposes of that person's eligibility to serve eight years consecutively.

**b. Ex-officio Directors.** An Ex-officio Director shall serve so long as he or she holds the office or the position which resulted in placement on the Board.

**c. Life Members.** The selection as a Life Member is for life.

## **Section 7. Powers And Duties Of Officers**

**a. Chair.** The Chair shall preside at all meetings of the Board and shall do and perform other duties as may be assigned to him or her by the Board or these By-laws. The Chair shall serve as Chair of the Executive Committee, and he or she shall be an ex-officio voting member of all Committees of the Board.

**b. Vice Chair.** The Vice Chair shall preside at all meetings of the Board in the absence or disability of the Chair and shall do and perform other duties as may be assigned to him or her by the Chair, the Board, or these By-laws. In the event of a vacancy or prolonged disability in the office of the Chair, the Vice Chair shall also perform all duties of the Chair.

## **Section 8. Resignation.**

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<sup>1</sup> Amendment to Section 6.a revised term lengths and maximums executed on May 17, 2013. Marked revisions identified as "Amendment 1" at end of document.

A Director may resign at any time by submitting a written resignation to the Chair and the Executive President.

## **Section 9. Removal.**

An Elected Director may be removed by a two-thirds vote of the Board members present and voting, whenever in the Board's judgment the interests of the Foundation would be best served. Any Director may be removed for cause by the University President after consultation with the other Directors.

## **ARTICLE 5. EXECUTIVE OFFICERS AND ELECTIONS**

The Board may vote to name Executive Officers or to remove Executive Officers at its discretion. The Executive Officers shall consist of the following: Executive Vice-President, Associate Vice-President, Secretary, and Treasurer, unless otherwise determined by the Board. The Board may provide for other Executive Officers as it deems necessary. If a vacancy occurs in an office, an election may be held at any regular or special meeting of the Board.

## **ARTICLE 6. POWERS AND DUTIES OF EXECUTIVE OFFICERS**

**Section 1. Executive Vice-President.** The office of Executive Vice-President shall be the chief executive officer of the Foundation, responsible for the day-to-day management of the affairs of the Foundation. The Executive Vice-President shall exercise the authority to accept gifts, collect revenues, and make expenditures, and is responsible for maintenance and management of the Foundation's activities and personnel, and shall perform other duties assigned to him or her by the Board or these By-laws.

**Section 2. Associate Vice President.** The Associate Vice President is the chief operating officer of the Foundation. The Associate Vice President shall manage the business affairs of the Foundation as delegated by the Executive Vice President and is specifically authorized to sign documents on behalf of the Foundation in accordance with these By-laws and the policies of the Foundation.

**Section 3. Secretary.** The Secretary shall keep full and accurate minutes of all meetings of the Board and Executive Committee, transmit all notices required by these By-laws, and perform other duties assigned by the Board or these By-laws. The Secretary shall have charge of all official records of the Foundation which shall at all reasonable times be open to examination by any Director.

**Section 4. Treasurer.** The Treasurer shall review the budgetary status and financial information of the Foundation and attend all meetings of the Finance

Committee. The Treasurer shall also perform other duties assigned by the Board or these By-laws.

**Section 5. Absence or Incapacity of Officers.** In the event of absence, inability, or refusal to act of any Officer, the Executive Committee may appoint a successor to perform such Officer's respective duties, until the following meeting of the Board or any special meeting which may be held for the election of Officers.

**Section 6. Resignation.** An Officer may resign at any time by submitting a written resignation to the Executive Vice-President. If the Executive Vice-President is resigning, he or she may submit his or her resignation to the Chair and the University President.

**Section 7. Removal.** Any Officer may be removed by the Board at any time for any reason.

## **ARTICLE 7. TRANSACTION OF FOUNDATION BUSINESS**

**Section 1. Checks and Drafts.** Checks or drafts (paper or electronic) on the funds of the Foundation must be signed by two Executive Officers. All Foundation Executive Officers are authorized to sign checks or drafts.

**Section 2. Execution of Foundation Documents.** The Chair, Vice Chair, Executive Vice President, and Associate Vice President are authorized to execute in the name of the Foundation, with the Secretary attesting if necessary, all certificates, contracts, deeds, notes, and other documents or legal instruments authorized or issued by the Board or these By-laws, or necessary to effectuate the purposes of the Foundation.

**Section 3. Employee Bonding.** The Foundation shall keep in force a blanket surety bond or employee dishonesty insurance, the adequacy of which shall be determined by the Board, to assure that each Officer and employee who is authorized to collect, hold, or disburse funds of the Foundation shall faithfully discharge his or her duties.

**Section 4. The Corporate Seal.** The corporate seal of the Foundation inscribed with the words "Florida Polytechnic University Foundation, Inc." shall continue to be the seal as formerly adopted and now used and reproduced as follows:

***[ SEAL ]***

## **ARTICLE 8. COMMITTEES OF THE BOARD OF DIRECTORS**

**Section 1. Standing and Special Committees;** Standing Committees shall be permanent. Special Committees may be formed by the Chair for special purposes as requested and set forth by the Board.

**a. Special Appointees.** A Special Appointee is appointed by the Chair to serve on a Committee in order to enhance the purposes of the Committee. Special Appointees are not Directors but do have full voting rights on the assigned Committee, and have no other rights or privileges of a Director.

**b. Term of Office.** Committees shall have a minimum of three members appointed for one-year terms. Members shall serve commencing immediately following appointment and continuing through the meeting closest to the end of one year.

**c. Appointments.** Appointments to Committees and designation of the respective chairs for service during the ensuing fiscal year shall be made by the Chair prior to the first Board meeting of the new fiscal year.

**d. Executive Committee.** The Executive Committee is a Standing Committee and shall consist of the following: the Chair, Vice Chair, Treasurer, immediate past Chair, University President, one Board of Trustees designee, chairs of other Standing Committees, and three additional members appointed by the Chair annually, at his or her discretion. The Chair, or in his or her absence the Vice Chair, shall preside at meetings of the Executive Committee.

**(1) Meetings.** The Executive Committee shall meet at the call of the Chair. The presence of four members shall constitute a quorum of the Committee and the affirmative vote of a majority of members present shall be necessary for the adoption of any resolution. No subsequent revision or alteration by the Board of action taken by the Executive Committee shall affect the rights of third parties.

**(2) Powers.** The Executive Committee shall have and may exercise all powers and authority of the Board when the Board is not in session and may act in lieu of any Committee; provided however, the Executive Committee shall have no authority to alter, amend, or repeal the Articles of Incorporation or the By-laws of the Foundation or to elect Directors.

**e. Finance Committee.** The Finance Committee is a Standing Committee and shall establish and be responsible for the fiscal policy of the Foundation,

including budgets and fees. The Finance Committee shall recommend the budget for the next fiscal year to the Board at its regular meeting held prior to the end of the current fiscal year. The Finance Committee is also responsible for oversight of all Foundation investments, and the acquisition, management, and disposal of all real property offered to, or held by, the Foundation.

**f. Audit Committee.** The Audit Committee is a Standing Committee and shall select the Foundation's external and internal auditors, set the audit plans with the auditors annually, review the annual audits of the Foundation, and report on the audits to the Board at the first Board meeting after each audit is completed. The external auditor shall report directly to the Audit Committee. Additionally, the Audit Committee shall provide oversight for Foundation internal controls.

**Section 2. Committee Actions; Records.** All official actions of any Standing Committee shall require approval or confirmation by the Board. Each Committee shall maintain written minutes of its meetings. Any Committee member may be removed for cause by the University President after consultation with the Directors.

## **ARTICLE 9. MEETINGS AND QUORUM**

**Section 1. Calling Meetings.** At least two meetings of the Board shall be held during each fiscal year. The day, hour, and place of the meetings shall be determined by the Chair.

**Section 2. Special Meetings.** Special meetings of the Board may be called by the Chair, Executive Vice President, ten or more Directors, or the University President.

**Section 3. Quorum and Voting.** Any number greater than 50% of all of the Directors shall constitute a quorum at any duly noticed meeting of the Board. One-third of a Committee (except for the Executive Committee as provided in Article 8, Section 1) shall constitute a quorum at any meeting of a Committee. All questions shall be determined by a majority vote of those present and voting, except:

**a.** a majority of the Directors must concur in amending these By-laws;  
and

**b.** as otherwise provided in the Articles of Incorporation.

**Section 4. Presiding Officer.** The Chair, or in his or her absence, the Vice Chair, shall preside at meetings of the Board. In the absence of both of these Officers from any meeting, the meeting shall be run by a Director or Executive



Officer designated by the Chair. If there is no designee, then the University President may appoint any Director or Executive Officer to preside.

**Section 5. Minutes.** Minutes of any Board meeting shall be presented for approval at the next meeting of the Board.

**Section 6. Action Without a Meeting.** To the extent permitted by law, action of the Board or its Committees may be taken by a majority vote of the members of the Board or its Committees, individually or collectively consenting in writing or by telephone conference to the actions. In writing or by telephone includes facsimile, telegraph, electronic transmission (such as email), satellite broadcast, or any other electronic means. The written consent or consents shall be filed with the minutes of the proceedings of the Board or Committee. Action by written consent shall have the same force and effect as action by voice vote of the Board or its Committees. Any certificate or other document filed under any provision of law which relates to an action taken without a meeting shall state the action was taken by written consent of a majority of the Board or its Committees without a meeting, and that the By-laws of the Foundation authorize the Board and its Committees to act without a meeting as described in this section.

**Section 7. Proxies.** Proxies, general or special, shall not be accepted for any purpose in the meetings of the Board or Committees.

**Section 8. Roll Call.** At the beginning of any meeting, the Secretary shall determine the presence or absence of a quorum. The roll shall thereafter only be called upon the request of the Chair or any Director, and after each roll call the presence or absence of a quorum shall be announced.

**Section 9. Notice.** Notice of each meeting shall be mailed to the Board by the Secretary not fewer than seven calendar days preceding the meeting.

**Section 10. Waiver of Notice.** Whenever any notice is required to be given under the provisions of the Florida Not for Profit Corporation Act or under the provisions of the Articles of Incorporation or the By-laws, a written waiver of the notice signed by the person or persons entitled to notice, whether before or after the time the notice was required, shall be deemed equivalent to the giving of the notice. This Section 10 does not dispense with any public notice required by law.

**Section 11. Public Notice.** Public notice of any meeting of the Board of Directors or any Committee shall be made as required by Florida law.

## **ARTICLE 10. CONFLICTS OF INTEREST POLICY<sup>2</sup>**

**Section 1. Purpose.** The purpose of this Policy is (i) to ensure Foundation compliance with applicable provisions of the Code of Ethics for Public Officers and Employees (Part III of Chapter 112 of Florida Statutes) and (ii) to protect the Foundation's interests when entering into a transaction or arrangement that might benefit the private interest of an Officer, Director, or Committee member.

### **Section 2. Definitions.**

**a. Interested Person.** Any Director, Officer, or member of a Committee with Board-delegated powers, who has a direct or indirect Financial Interest, as defined below, is an Interested Person.

**b. Financial Interest.** A person has a Financial Interest if the person has, directly or indirectly, through business, investment, or family:

(1) an ownership or investment interest in any entity with which the Foundation has a transaction or arrangement; or

(2) a compensation arrangement with the Foundation or with any entity or individual with which the Foundation has a transaction or arrangement; or

(3) 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.

**c. Compensation.** "Compensation" as used above includes direct and indirect remuneration as well as gifts or favors that are substantial in nature. A Financial Interest is not necessarily a conflict of interest. An Interested Person who has a Financial Interest has a conflict of interest only if the Board or appropriate Committee decides that a conflict of interest exists.

### **Section 3. Procedures for Conflicts of Interest.**

**a. Duty to Disclose.** In connection with any actual or possible conflicts of interest, an Interested Person must disclose the existence of his or her Financial Interest and all material facts to the Directors and members of Committees with Board-delegated powers considering the proposed transactions or arrangement.

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<sup>2</sup> Article 10 was amended October 03, 2014. Full version of changes is titled Footnote 2 – Amendment 2 located at completion of Bylaws.

**b. Determining Whether a Conflict of Interest Exists.** The remaining Board or Committee members shall decide whether a conflict of interest exists.

**c. Procedures for Addressing the Conflict of Interest.** An Interested Person may make a presentation at the Board or Committee meeting, but after such presentation, he or she shall be invited and allowed (but not required) to leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest.

(1) The Chair of the Board or the Committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

(2) After exercising due diligence, the Board or Committee shall determine whether the Foundation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.

(3) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or Committee shall determine by a majority vote of the disinterested Directors or members in attendance whether to enter into the transaction despite the conflict of interest.

**d. Violations of the Policy.**

(1) If the Board or Committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

(2) If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the Board or Committee determines that the member has in fact failed to disclose an actual or possible conflict or interest, it shall take appropriate action, which may include immediate removal.

**e. Option to Abstain in University-Related Transactions.** Under this bylaw, conflicts of interest arise in connection with transactions and arrangements entered into only by the Foundation, not by the University. Nevertheless, a Director, Officer or member of a Committee may opt to abstain from voting on a

Foundation matter when a separate transaction or arrangement with the University in which he or she is involved creates the appearance of a conflict of interest.

#### **Section 4. State Voting-Conflict Requirements.**

In addition to the requirements and restrictions in Section 3, the following apply under state law (Section 112.3251, Fla. Stat.) to voting by Directors:

**a. Required Abstention.** A Director may not vote on any matter that the Director knows would inure to his or her special private gain or loss. A Director who abstains from voting on any such matter must make every reasonable effort to disclose, before the meeting at which the vote is to be taken, the nature of his or her interest in a memorandum filed as a public record with the recording secretary, who shall incorporate the memorandum in the minutes of the Board meeting. If it is not possible for the Director to file the memorandum before the vote, the memorandum must be filed with the recording secretary no later than 15 days after the vote.

**b. Optional Abstention.** At the Director's election, a Director either may vote or may abstain from voting in an official capacity upon any measure that the Director knows would inure to the special private gain or loss:

(1) Of any principal by whom the Director is retained; or

(2) Of the parent organization or subsidiary of a corporate principal by which the Director is retained, other than an agency as defined in s. 112.312(2); or

(3) Of a relative or business associate of the Director.

If the Director elects to vote on a measure described above, the Director shall make every reasonable effort to disclose the nature of the conflicting interest as a public record in a memorandum filed with the recording secretary, who shall incorporate the memorandum in the minutes of the Board meeting. If it is not possible for the Director to file a memorandum before the vote, the memorandum must be filed with the recording secretary no later than 15 days after the vote.

**c. Form of Memorandum.** The memorandum to be filed above shall be the form required to be used for disclosure of voting conflicts under Section 112.3143(2) of Florida Statutes (Commission on Ethics Form 8A).

**d. State Law to Govern.** If there is conflict between the requirements of this Section 4 and the requirements of Section 3, this section, which restates applicable state ethics-law requirements, shall govern.

**Section 5. Records of Proceedings.** The minutes shall contain: (a) the names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible conflict of interest, the nature of the Financial Interest, any action taken to determine whether a conflict of interest was present, and the decision as to whether a conflict of interest in fact existed; and (b) the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the transaction or arrangement.

**Section 6. Annual Disclosure.** Each Foundation staff member, Director, Officer, and member of a Committee shall annually complete and sign the Conflict of Interest Disclosure statement which affirms that he or she:

- a. has received a copy of the Conflict of Interest policy;
- b. has read and understands the policy;
- c. has agreed to comply with the policy; and
- d. understands that the Foundation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

## **ARTICLE 11. MISCELLANEOUS PROVISIONS**

**Section 1. Regulations of the Board of Trustees.** The Articles of Incorporation and By-laws shall be consistent with the applicable regulations of the University and the Board of Trustees, including the right of the University President to monitor and control the use of the name of the University and other University resources.

**Section 2. Nondiscrimination.** The Foundation shall not discriminate based on race, creed, color, religion, gender, age, national origin, sexual orientation, marital status, disability, political opinions or affiliations, or veteran status.

**Section 3. Foundation Employees.** No person employed by the Foundation shall be considered to be an employee of Florida Polytechnic University or Florida Polytechnic University's Board of Trustees solely because of such person's employment by the Foundation.

**Section 4. Confidentiality of Foundation Documents.** As stated in Florida Statutes Section 1004.28, Foundation records are confidential and exempt from Florida public records laws. Upon receipt of a reasonable and specific request in writing, the Foundation shall provide financial information such as expenditures from Foundation funds, documentation regarding completed business transactions, and information about the management of Foundation assets. The Foundation shall furnish this information in a format reasonably responsive to the request, at a reasonable cost to the requesting party, pursuant to Florida law. The Foundation shall not, however, release any record or information that includes personal or financial information about a donor, prospective donor, alumnus, volunteer, or employee. All fundraising activities undertaken by University staff, faculty, or students, or by volunteers, are undertaken on behalf of the Foundation. All documents associated with such activities in possession of any University staff, faculty, or student, or any volunteer, are records of the Foundation and are confidential.

## **Section 5. Indemnification**

**a. Indemnification.** Every Director and Officer of the Foundation, as well as Special Appointees, shall be indemnified by the Foundation against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed on the Director or Officer in connection with any proceeding, including any appeal, or any settlement of any proceeding to which the individual may be a party or in which he or she becomes involved as a result of serving as a Director, Officer, or Special Appointee. The indemnified party does not have to be a Director, Officer, or Special Appointee at the time the expenses or liabilities are incurred or imposed. In the event, however, of a settlement before entry of judgment, the indemnification shall apply only upon approval by the Board of Directors as being in the best interests of the Foundation. This indemnification is in addition to and not exclusive of all other rights to which the person may be entitled.

**b. Exceptions and Limitations.** The indemnification set forth above does not apply in the case of an action by, or in the right of, the Foundation. A Director, Officer, or Special Appointee is entitled to indemnification only if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Foundation and (where applicable) had no reasonable cause to believe his or her conduct was unlawful. This indemnification shall be made in accordance with Section 607.0850, Florida Statutes, as amended from time to time.

**Section 6. Written Policies.** The Foundation shall have written policies on ethics, conflicts of interest, personnel, discrimination, and sexual harassment.

**Section 7. Review of Mission.** The President of the University or his or her designee shall periodically review the mission of the Foundation to ensure that it is in furtherance of the interests of the University.

## **ARTICLE 12. AMENDMENTS**

The By-laws of the Foundation may be altered or amended at any meeting of the Board by resolution approved by a vote of a majority of the Board. Written notice of any proposed amendment of the By-laws shall be mailed to each member of the Board not fewer than seven calendar days prior to any meeting at which the proposed amendment is to be considered. Proposed amendments shall become effective only after approval by the University President or his or her designee.

*By-laws of Florida Polytechnic University Foundation, Inc. adopted by the Board of Directors of Florida Polytechnic University Foundation, Inc. on October 24, 2012.*

## Footnote 1 – Amendment 1

### BYLAWS OF FLORIDA POLYTECHNIC UNIVERSITY FOUNDATION, INC. AMENDMENT #1

This Amendment #1 to the Bylaws of Florida Polytechnic University Foundation, Inc. ("Amendment") is an amendment to the Bylaws of Florida Polytechnic University Foundation, Inc. dated October 24, 2012 ("Bylaws").

Pursuant to Article 12 of the Bylaws, the Florida Polytechnic University Foundation Board ("Board") amends the Bylaws to revise Article 4. Section 6. a. as follows:

a. Elected Directors. An Elected Director shall hold a ~~four-year~~two, three or four year term, ~~as assigned by the Board,~~ commencing ~~immediately following election~~on the effective date of appointment and continuing through the meeting closest to the end of ~~four-the assigned term~~years, and is not eligible to serve more than ~~two-term~~eight years consecutively. An Elected Director who has served ~~two-terms consecutively~~eight years consecutively may be re-elected to the Board after the expiration of one year following the end of his or her last term and shall have the status of a new Director. Vacancies occurring during a term shall be filled for the unexpired portion in the manner provided for the election of Directors. ~~Where a person fills a vacancy~~Where a person fills a vacancy ~~that is filled with less than two years~~one half of the term remaining, ~~the person's years of service spent filling such vacancy~~ shall not be counted ~~as a term~~ for purposes of that person's eligibility to serve ~~two-term~~eight years consecutively.

#### BYLAWS CERTIFICATE

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The undersigned certifies that he or she is the Chair of the Florida Polytechnic University Foundation, Inc. and that as such, she is authorized to execute this certificate on behalf of the Foundation. He or she further certifies that the foregoing Amendment #1 to Bylaws, consisting of one (1) page, including this page, amends the Bylaws of the Foundation as of this date, duly adopted by the board of directors of the Foundation on March 29, 2013.

Cindy Alvord Date: 5/17/13

This Amendment #1 to the Bylaws of Florida Polytechnic University, Inc. are approved by the President of Florida Polytechnic University: Charles A. ...  
on May 20, 2013.



## Footnote 2 – Amendment 2

### BYLAWS OF FLORIDA POLYTECHNIC UNIVERSITY FOUNDATION, INC. AMENDMENT #2

This Amendment #2 to the Bylaws of Florida Polytechnic University Foundation, Inc. (“Amendment”) is an amendment to the Bylaws of Florida Polytechnic University Foundation, Inc. dated October 24, 2012, as previously amended (“Bylaws”).

Pursuant to Article 12 of the Bylaws, the Florida Polytechnic University Foundation Board (“Board”) amends the Bylaws to revise Article 10 as follows:

#### ARTICLE 10. ~~ETHICS~~ CONFLICTS OF INTEREST ~~CONFLICT OF INTEREST~~ POLICY

**Section 1. Purpose.** The purpose of this Policy is ~~(i) to ensure Foundation compliance with applicable provisions of the Code of Ethics for Public Officers and Employees (Part III of Chapter 112 of Florida Statutes) and (ii) to protect the Foundation's interests when entering into a transaction or arrangement that might benefit the private interest of an Officer, Director, or Committee~~ or Advisory Council member.

#### **Section 2. Definitions.**

**a. Interested Person.** Any Director, Officer, or member of a Committee ~~or Council~~ with Board-delegated powers, who has a direct or indirect Financial Interest, as defined below, is an Interested Person.

**b. Financial Interest.** A person has a Financial Interest if the person has, directly or indirectly, through business, investment, or family:

- (1) an ownership or investment interest in any entity with which the Foundation ~~or the University~~ has a transaction or arrangement; or
- (2) a compensation arrangement with the Foundation ~~or the University~~ or with any entity or individual with which the Foundation ~~or the University~~ has a transaction or arrangement; or
- (3) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Foundation ~~or the University~~ is negotiating a transaction or arrangement.

**c. Compensation.** “Compensation” as used above includes direct and indirect remuneration as well as gifts or favors that are substantial in nature. A Financial Interest is not necessarily a conflict of interest. An Interested Person who has a Financial Interest has a conflict of interest only if the Board or appropriate Committee ~~or Council~~ decides that a conflict of interest exists.

#### **Section 3. Procedures** for Conflicts of Interest.

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**a. Duty to Disclose.** In connection with any actual or possible conflicts of interest, an Interested Person must disclose the existence of his or her Financial Interest and all material facts to the Directors and members of Committees ~~and Councils~~ with Board-delegated powers considering the proposed transactions or arrangement.

**b. Determining Whether a Conflict of Interest Exists.** The remaining Board, ~~or Committee, or Council~~ members shall decide whether a conflict of interest exists.

**c. Procedures for Addressing the Conflict of Interest.** An Interested Person may make a presentation at the Board, ~~or Committee, or Council~~ meeting, but after such presentation, he or she shall be invited and allowed (but not required) to leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest.

(1) The Chair ~~or the Chair of the Board or the Committee or Council~~ shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

(2) After exercising due diligence, the Board, ~~or Committee, or Council~~ shall determine whether the Foundation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.

(3) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board, ~~or Committee, or Council~~ shall determine by a majority vote of the disinterested Directors or members in attendance whether to enter into the transaction despite the conflict of interest.

**d. Violations of the Policy.**

(1) If the Board, ~~or Committee, or Council~~ has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

(2) If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the Board, ~~or Committee, or Council~~ determines that the member has in fact failed to disclose an actual or possible conflict or interest, it shall take appropriate action, which may include immediate removal.

**e. Option to Abstain in University-Related Transactions.** Under this bylaw, conflicts of interest arise in connection with transactions and arrangements entered into only by the Foundation, not by the University. Nevertheless, a Director, Officer or member of a Committee may opt to abstain from voting on a Foundation matter when a separate transaction or arrangement with the University in which he or she is involved creates the appearance of a conflict of interest.

**Section 4. State Voting-Conflict Requirements.** In addition to the requirements and restrictions in Section 3, the following apply under state law (Section 112.3251, Fla. Stat.) to voting by Directors:

**a. Required Abstention.** A Director may not vote on any matter that the Director knows would inure to his or her special private gain or loss. A Director who abstains from voting on any such matter must make every reasonable effort to disclose, before the meeting at which the vote is to be taken, the nature of his or her interest in a memorandum filed as a public record with the recording secretary, who shall incorporate the memorandum in the minutes of the Board meeting. If it is not possible for the Director to file the memorandum before the vote, the memorandum must be filed with the recording secretary no later than 15 days after the vote.

**b. Optional Abstention.** At the Director's election, a Director either may vote or may abstain from voting in an official capacity upon any measure that the Director knows would inure to the special private gain or loss:

(1) Of any principal by whom the Director is retained; or

(2) Of the parent organization or subsidiary of a corporate principal by which the Director is retained, other than an agency as defined in s. 112.312(2); or

(3) Of a relative or business associate of the Director.

~~The abstaining~~ If the Director elects to vote on a measure described above, the Director shall make every reasonable effort to disclose the nature of the conflicting interest as a public record in a memorandum filed with the recording secretary, who shall incorporate the memorandum in the minutes of the Board meeting. If it is not possible for the Director to file a memorandum before the vote, the memorandum must be filed with the recording secretary no later than 15 days after the vote.

**c. Form of Memorandum.** The memorandum to be filed above shall be the form required to be used for disclosure of voting conflicts under Section 112.3143(2) of Florida Statutes (Commission on Ethics Form 8A).

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d. State Law to Govern. If there is conflict between the requirements of this Section 4 and the requirements of Section 3, this section, which restates applicable state ethics-law requirements, shall govern.

**Section 54. Records of Proceedings.** The minutes shall contain: (a) the names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible conflict of interest, the nature of the Financial Interest, any action taken to determine whether a conflict of interest was present, and the decision as to whether a conflict of interest in fact existed; and (b) the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the transaction or arrangement.

**Section 65. Annual Disclosure.** Each Foundation staff member, Director, Officer, and member of a Committee ~~or Council~~ shall annually complete and sign the Conflict of Interest Disclosure form a statement which affirms that he or she:

- a. has received a copy of the Conflict of ~~i~~nterest policy;
- b. has read and understands the policy;
- c. has agreed to comply with the policy; and
- d. understands that the Foundation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

#### BYLAWS CERTIFICATE

The undersigned certifies that he or she is the Chair of the Florida Polytechnic University Foundation, Inc. and that as such, she is authorized to execute this certificate on behalf of the Foundation. He or she further certifies that the foregoing Amendment #2 to the Bylaws, consisting of 4 pages, including this page, amends the Bylaws of the Foundation as of this date, duly adopted by the Board of Directors of the Foundation on September 19, 2014.

\_\_\_\_\_, Date: \_\_\_\_\_

This Amendment #2 to the Bylaws of Florida Polytechnic University Foundation, Inc. are approved by the President of Florida Polytechnic University:

\_\_\_\_\_ on \_\_\_\_\_, 2014.

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