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Basic Governing Documents, Effective 2019-12-18

University of Dayton

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Basic Governing Documents of the University of Dayton

Includes:

- **Articles of Incorporation**
- **Code of Regulations of the Corporation**
- **Bylaws of the Board of Trustees**

Articles of Incorporation

**Attachment to Certificate of Amendment
University of Dayton
Ohio Charter Number 226846**

I, Mary Ann P. Recker, the Secretary of University of Dayton (the "University"), do hereby certify that the following resolution was adopted at a meeting of the Members of the University on May 15, 2017.

RESOLVED, that the Amended and Restated Articles of Incorporation of the University of Dayton set forth below be, and the same hereby are, adopted and approved.

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
UNIVERSITY OF DAYTON**

FIRST: The name of this corporation is University of Dayton (the "University").

SECOND: The place in Ohio where the University's principal office is located is the City of Dayton, Montgomery County, Ohio.

THIRD: The purposes of the University are as follows: The purpose or purposes for which the University is formed are establishing, maintaining and conducting, in fidelity to the Catholic faith and the charism and mission of the Society of Mary, an institution of learning for the purpose of offering instructions in the arts and sciences; promoting education in all departments of learning and knowledge, and especially in those branches usually comprehended in academic, collegiate and university courses; promoting the work of education, research, public service and charity, especially by fostering the Marianist Charism of education and formation in faith; acquiring and holding for such purposes money, real estate and other property necessary or proper to carry out said objects; and doing any and all things and engaging in such enterprises necessary or incident to the accomplishment of such purposes.

FOURTH: No part of the net earnings of the University shall inure to the benefit of any member, trustee, officer of the University, or any private individual (except that reasonable compensation may be paid for services rendered to or for the University affecting one or more of its purposes), and no member, trustee, officer of the University, or any private individual shall be entitled to share in the distribution of any of the University assets on dissolution of the University. No substantial part of the activities of the University shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the University shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of this certificate, the University shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501(c)(3) of

the Internal Revenue Code (the “Code”) and its Regulations as they now exist or as they may hereafter be amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of the Code and Regulations as they now exist or as they may hereafter be amended.

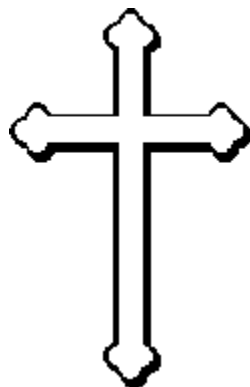
FIFTH: The Members of the University shall consist of each of the members of the Provincial Council of Marianist Province of the United States, and each of the Chairperson and the President of the University of Dayton.

SIXTH: Meetings of the Members or Trustees may be held within or without the State of Ohio, and may be in person or by telephonic or by electronic communication.

SEVENTH: Upon the dissolution of the University, the Board of Trustees shall, after paying or making provision for the payment of all the liabilities of the University, distribute all of the then remaining assets of the University to Marianist Province of the United States, (presently headquartered in St. Louis, Missouri) which distribution is intended to be in furtherance of the purposes of the University. Any of such assets not so distributed to Marianist Province of the United States shall be distributed to the Chaminade Foundation, a non-profit corporation and legal presence of the General Administration of the Society of Mary in the United States, which distribution is intended to comply with the purposes of the University. If neither of those organizations are in existence, the assets shall be directed by the Court of Common Pleas of Montgomery County, Ohio, to be distributed to such organization or organizations that are organized and operated exclusively for such Section 501(c)(3) purposes.

EIGHTH: These Amended and Restated Articles of Incorporation supersede and take the place of the existing Articles of Incorporation, and any amendments thereto.

BE IT FURTHER RESOLVED, that the officers of the University be, and each hereby is, authorized and directed to take all action necessary to implement the foregoing resolution, including, without limitation, causing a Certificate of Amendment of Articles of Incorporation to be filed with the Ohio Secretary of State.



Code of Regulations of University of Dayton

Code of Regulations

- of -

University of Dayton

An Ohio Nonprofit Corporation

PREAMBLE

The Members of the University of Dayton (the “University”) have adopted this Code of Regulations to establish operational procedures for the implementation of the duties and obligations accepted by them and delegated to others in accordance with the Articles of Incorporation of the University of Dayton, as amended, and the applicable laws of the State of Ohio. This Code of Regulations shall supersede and replace the Constitution of the University of Dayton and the Bylaws of the Corporation that were in effect prior to the implementation of this Code of Regulations.

ARTICLE I

PURPOSE AND SCOPE

Section 1. Scope. This Code of Regulations, as defined in the Ohio Revised Code Section 1702, has been prepared to implement the Articles of Incorporation of University of Dayton, dated March 5, 1952, as amended.

Section 2. Governing Hierarchy. This Code of Regulations shall be considered the major governing document of the University subordinate only to the Articles of Incorporation, as amended. Rules and regulations subordinate to this Code of Regulations, but not in conflict with its principles, shall be defined in bylaws, manuals, codes, or similar documents which are subject to the limitations described in this Code of Regulations.

Section 3. Primary Purpose. The primary purpose of the Code of Regulations is to promote the scholarly progress of the University and to ensure order and economy in the administration of the affairs of the University. Toward this end, the Code of Regulations contains general statements of authority and responsibility in the expectation that each person charged with the administration of a designated area shall determine the specific methods and procedures by which each unit can best promote and support the purposes of the University.

Section 4. Secondary Purpose. As a secondary purpose, this Code of Regulations describes the administrative structure of the University and is intended to provide flexibility for future reorganization and development in response to changing societal conditions or for a change of direction in meeting the goals and purposes of the University. Final determination in such matters shall reside in the Board of Trustees as determined in Article V of this Code of Regulations.

ARTICLE II

NAME AND NATURE OF THE INSTITUTION

Section 1. Name. The name by which this institution shall be known is UNIVERSITY OF DAYTON.

Section 2. Legal Documents. The basic legal documents of the University include the Articles of Incorporation filed with the Ohio Secretary of State and this Code of Regulations.

Section 3. Nature of the University. The University of Dayton is a Catholic and Marianist institution of higher learning grounded in the living tradition and charism of the Society of Mary, a Catholic religious congregation dedicated to education and formation in faith, which sponsors the University of Dayton.

Section 4. Commitment as a University. As a University, its fundamental commitment is to the discovery, dissemination and application of truth.

Section 5. Commitment as a Private Institution. As a private institution in a pluralistic society, the University is founded on the Christian understanding of the world and of the human person and addresses human questions and the search for truth from this philosophical position and religious perspective, while engaging other positions and perspectives in dialogue and in the search for Truth.

Section 6. Commitment as a Catholic University. As a Catholic University, the University accepts the validity and coherence of revealed and reasoned truth and is committed to genuine and responsible academic freedom supported by proper respect for the Church's Magisterium.

Section 7. The Marianist Tradition. The living Marianist educational tradition further dictates the University's emphasis on these core characteristics: formation in faith, the essential role of community and family spirit within the university, the development of the whole person, adaptation and change in view of life-long learning, and human fulfillment through self-transcending service to peace, justice and the integrity of creation. These are specified more fully in the document, "The Characteristics of Marianist Universities."

Section 8. Organization and Operating Principle. Fidelity to the ideal, as thus defined, in the discharge of all essential functions and in initiating and conducting special activities to meet

the changing needs of society, constitutes the first principle of the organization and operation of the University of Dayton.

Section 9. Appointments. To further its objectives, the University shall maintain a preference for appointing qualified members of the Society of Mary and the Daughters of Mary Immaculate (Marianist Sisters).

ARTICLE III

THE UNIVERSITY OF DAYTON COMMUNITY

Section 1. Groups. The University of Dayton community (the “University Community”), in addition to the Members of the University and the Board of Trustees, consists of the following five groups: Administration, Alumni, Faculty and other Instructional Staff, Students, and Supporting Staffs. Each group shall have distinct rights, privileges, responsibilities, and duties as recognized by the Members and/or the Board of Trustees;

Section 2. Group Interdependence. Each group shall have a mutual dependence on all the other elements of the University necessitating a high degree of cooperation and understanding for the achievement of the goals and objectives of the entire University Community.

Section 3. Administration. The Administration of the University shall consist of all persons responsible for the management of major University functions as designated by the President of the University. The rights, privileges, responsibilities, and duties of members of the Administration shall be defined in appropriate documents prepared by authorized representatives of the Administration.

Section 4. Alumni. The Alumni of the University of Dayton shall consist of all persons who have been awarded academic degrees, diplomas, or honorary degrees, or who were matriculated students in good standing at date of last attendance and whose rights, privileges, and obligations shall be defined in an appropriate document prepared by the University of Dayton Alumni Association.

Section 5. Faculty and Other Instructional Staff.

(a) Instructional Staff. All persons holding academic rank or other academic title, as approved by the Board of Trustees, and engaged directly or indirectly in the instructional activities of the University, either full-time or part-time, shall constitute the Instructional Staff of the University. The rights, privileges, responsibilities, and duties of the Instructional Staff shall be defined in appropriate documents prepared by the Board of Trustees, the Faculty, or their representative bodies.

(b) Faculty. The University Faculty shall consist of all members of the Instructional Staff, under full-time Faculty contract to the University, who have been appointed by the

University of Dayton to the ranks of Professor, Associate Professor, Assistant Professor, or to other full-time non-tenure track academic positions. Additional members of the Instructional and Administrative Staff of the University may be designated as members of the University Faculty by the assignment of Administrative Rank. The Faculty of each college, school, or similar academic unit shall consist of those members of the Faculty of the University who are primarily associated with a particular college, school, or similar academic unit.

- (i) Authority and Responsibility of the University Faculty. The Board of Trustees may delegate to the University Faculty the right to initiate and formulate the educational and academic policies of the University in areas of its competence.
- (ii) Delegation of Authority. The University Faculty may delegate any or all of its authority and responsibility to an elected body representative of the Faculty as a whole, provided only that the authority of such an organization shall be defined in an appropriate document adopted by a vote of the Faculty and approved by the President of the University and the Board of Trustees.
- (iii) Approval of Faculty Decisions. Decisions and recommendations of the University Faculty or its representative body shall be submitted to the President for approval and, when so determined, to the Board of Trustees for review and final approval.
- (iv) Faculties of the Academic Units. All authority in academic matters not exercised by the Board of Trustees, the University Faculty, or their representative bodies shall reside with the Faculty of each college, school, or similar academic unit. It shall be the responsibility of the Dean or administrative head of each academic unit to establish an appropriate means for faculty participation in decision-making processes at each level where faculty responsibility resides.
- (v) Faculty Meetings. There shall be a regular meeting of the University Faculty at the beginning and end of each academic year. The general purpose of regular meetings shall be in the nature of a report to the Faculty on the state of the University. The regular meetings shall be called by the Provost who shall determine the agenda after consultation with the President and other Officers of the University.
 - (A) Special meetings. Special meetings of the University Faculty shall be held as determined by the Provost or upon the call of the Faculty representative body.
 - (B) Notice. Notice of regular and special meetings, including the agenda, shall be sent to the Faculty at least five days prior to the date of the meeting.

- (C) Agenda. The Agenda for special meetings shall be prepared by the Provost or the Faculty representative body, whichever called the meeting.
- (D) Presiding Officer. The Provost shall be the presiding officer for all meetings of the University Faculty, except that when the Provost is absent the President shall appoint the presiding officer.
- (c) Academic Freedom and Tenure. The University of Dayton shall subscribe to policies of academic freedom and tenure generally accepted in comparable educational institutions, provided only that such policies shall not conflict with the purposes stated in the Articles of Incorporation, as amended, the purposes stated in this Code of Regulations, and the objectives for which this institution was originally established.
- (i) It shall be the duty of the President of the University to determine the manner in which an appropriate document or documents shall be evolved for the accurate formulation of the policies of academic freedom and tenure befitting the purposes of the University, including the requirements of academic due process.
- (ii) Such document or documents shall be subject to approval of the Board of Trustees.

Section 6. Students. Students of the University shall include all persons pursuing programs of study leading to an academic degree, or officially enrolled in courses or programs of study sponsored by the University and whose rights, privileges, responsibilities, and duties shall be defined in a student code or similar document developed in consultation with representative student and faculty groups and the appropriate administrative authorities.

Section 7. Supporting Staffs. The Supporting Staffs of the University, as distinct from those enumerated in Sections 3 and 5 of this Article, shall consist of all persons employed by the University in any capacity. For the purpose of determining the rights, privileges, responsibilities, and duties of one or more individual groups of employees as distinguished by function, the Board of Trustees, through the President of the University, may recognize them as separate staffs.

ARTICLE IV

MEMBERS

Section 1. Members. The Members of the University of Dayton shall consist of each of the members of the Provincial Council of the Marianist Province of the United States and each of the Chairperson and the President of the University of Dayton. The Provincial of the Marianist

Province of the United States serves as the Chairperson of the University and the First Vice Chairperson of the Board of Trustees.

Section 2. Termination. Membership shall terminate with the appointment of a successor or cessation of the qualifications for appointment.

Section 3. Society of Mary. All references to the “Society of Mary” shall refer to the Society of Mary known as the Marianists. References to the Marianist Province of the United States refer to the unit of that Society of Mary operating under the Marianist Province of the United States and its successors and assigns.

Section 4. Member Power and Authority. The Members of the University shall be vested with the power and authority granted to them in the Articles of Incorporation, as amended, this Code of Regulations of the University of Dayton, and the applicable laws of the State of Ohio for the operation of the University of Dayton.

Section 5. Exercising Member Powers. In order to ensure the continuation of the University of Dayton as a private institution with its own unique character and traditions, the Members of the University shall retain exclusive control over the following matters:

- (a) The nomination of candidates to be elected or re-elected Trustees by the Board of Trustees (except that the Board of Trustees may fill a vacancy if the Members of the University fail to nominate a candidate within six months of receiving recommendations from the Board to fill a vacancy, as set forth in Article V, Section 6(a) of this Code of Regulations), and removal of members of the Board of Trustees of the University of Dayton (who serve at the pleasure of the Members) by a majority vote of the Members;
- (b) Approval of amendments to the Articles of Incorporation and this Code of Regulations.

Section 6. Member Approval of Trustee Actions. Approval by two-thirds vote of the Members shall be required before the Trustees may take any action with respect to the following:

- (a) A change in the fundamental mission or purpose of the University;
- (b) The merger or consolidation of the University with another corporation;
- (c) The sale, encumbrance, or alienation of twenty percent (20%) or more of the total assets of the University, as defined in the most recent audited financial statements, in a single transaction or in any related series of transactions in the immediately-preceding five-year period, other than exchanges or transfers of marketable securities done in the ordinary course of the University’s business;
- (d) Partial or total dissolution of the corporation.

Section 7. Meetings. It shall be the duty of the Chairperson of the University to call and preside over the Annual Meeting of Members which shall be held, if reasonably practical, between November 15 and December 31 of each year at a time and place to be determined by the Members.

Section 8. Special Meetings. Special meetings of the Members shall be called by the Chairperson of the University or upon the request of a majority of the total number of Members.

Section 9. Notice of Meeting. Written notice of all meetings shall be given to the Members not less than five days before the date of the meeting whenever practically possible by mailing such notice to the last known address of each Member, by personal delivery, or by electronic mail at the e-mail address of each Member that has been provided to the University.

Section 10. Meeting Minutes. The Secretary of the University or his or her designee shall be responsible for the minutes of the meetings of the Members which shall be retained at the principal office of the University.

Section 11. Quorum. A quorum shall consist of a majority of the total number of Members.

Section 12. Meetings Conducted via Electronic or Video Communication. A meeting of the Members may be conducted, in whole or in part, by electronic audio or video screen communication (a) if the University implements measures to provide Members an opportunity to participate in the meeting and to vote on matters, including an opportunity to read, hear, and/or see the proceedings of the meeting concurrently with those proceedings, and (b) if any Member votes or takes other action at the meeting by means of electronic audio or video screen communication, a record of that vote or action is maintained.

Section 13. Action Without a Meeting. Any action which might be taken at a meeting of the Members may be taken without such meeting if authorized in writing by all the Members, provided only that evidence of such action be retained in the permanent record or minutes relating to meetings of the Members.

Section 14. Death or Incapacity of University Chairperson. In case of the death or permanent incapacity of the Chairperson of the University, the Vice Chairperson of the University (the Assistant Provincial of the Marianist Province of the United States) shall assume these duties until a Chairperson of the University has been appointed and assumes office.

Section 15. Code of Regulations. The Members of the University shall adopt and amend this Code of Regulations by a two-thirds vote of the total number of Members. This Code of Regulations shall include provisions common to regulations of this type, but not in conflict with the Articles of Incorporation, as amended. The Secretary of the University shall notify the Board of Trustees of amendments or other changes in the Code of Regulations.

ARTICLE V

BOARD OF TRUSTEES

Section 1. Board of Trustees. The Members of the University hereby delegate to the Board of Trustees all authority for the governance of the University granted to said Members in the Articles of Incorporation of the University of Dayton, as amended, and the provisions of Ohio NonProfit Corporation Law, subject only to the limitations stated in Article IV of this Code of Regulations. The Members shall retain only that authority necessary to preserve the private character and the traditions of the University as specifically stated in Articles IV and V of this Code of Regulations.

Section 2. Membership. The Members shall determine the number and manner of selection of said Trustees pursuant to the provisions of this Code of Regulations of the University of Dayton.

- (a) At any regular or special meeting, the Members of the University may make nominations to fill vacancies on the Board of Trustees from a list of names of candidates prepared by the Board of Trustees or a committee thereof.
- (b) Nominations to fill vacancies on the Board of Trustees shall be presented by the Chairperson of the Board of Trustees at any regular or special meeting of the Board of Trustees.
- (c) Members of the Board of Trustees, except *ex officio* members, shall be elected by the Board of Trustees from the nominations made by the Members of the University.
- (d) The operational procedures of the Board of Trustees shall be defined in this Code of Regulations and in the Bylaws of the Board of Trustees.
- (e) The Trustees shall exercise the rights, privileges, responsibilities, and duties delegated to them by the Members of the University for the governance of the University as required by the Articles of Incorporation of the University of Dayton, as amended, and the provisions of the Ohio Nonprofit Corporation Law.

Section 3. Number. The total number of Trustees, including *ex officio* voting members, shall be not less than fifteen nor more than forty, as determined from time to time by the Members of the University.

Section 4. Ex Officio Trustees. The President of the University, the First Vice Chairperson as the Provincial of the Marianist Province of the United States, the Rector, and the Alumni Association President shall be the only *ex officio* voting members of the Board of Trustees. These *ex officio* voting members of the Board of Trustees shall be included in the appropriate tallies for establishing the classifications of Trustees under Article V, Section 5. of this Code of Regulations.

- (a) The Board may designate other Officers of the University as *ex officio* nonvoting members on an annual basis.
- (b) *Ex officio* voting Trustees shall be considered for quorum purposes for Board meetings and Board committee meetings, and at least two such *ex officio* voting Trustees shall be present for the Board to establish a quorum.

Section 5. Classes of Trustees. Trustees shall be classified into the following classes for purposes of representation:

- (i) The Society of Mary
 - (ii) The Alumni of the University
 - (iii) Involvement in the Greater Dayton community (where “Greater Dayton” means the area within a 150-mile radius from the Dayton campus)
 - (iv) Trustees-at-large
- (a) At least 20% of the total number of Trustees, including *ex officio* voting Trustees, shall represent each of the first three classes.
 - (b) Trustees may represent more than one class at a time.
 - (c) If any member of the Board of Trustees ceases to have the qualifications for participation on the Board, the term of office of such Trustee shall terminate.

Section 6. Term of Office. The regular term of office for all Trustees, except *ex officio* Trustees, shall be for three (3) years. The term of office of an equal number of Trustees, as near as possible, shall expire each year.

- (a) Vacancies which occur in any class of Trustees in any manner except the expiration of term shall be filled only for the remainder of their term and a successor is elected by the Board of Trustees from nominations submitted by the Members of the University. Any vacancy may be filled by the Board of Trustees in case the Members of the University fail to nominate a replacement during the six months after the Members receive recommendations from the Board to fill a vacancy.
- (b) A Trustee who has served three consecutive three-year terms shall not be eligible for reelection until the lapse of one full year since the expiration of the last term. The President of the Alumni Association is approved for one term of three years, and such Trustee shall be classified as “Alumni of the University” under Article V, Section 5. of this Code of Regulations. Notwithstanding the foregoing, any Trustee who is elected to the office of Chairperson Elect of the Board of Trustees shall be eligible to serve as a Trustee and as Chairperson Elect until the expiration of the term of the current

Chairperson of the Board, and then shall be eligible to serve one additional three-year term as Chairperson of the Board if such an additional three-year term is necessary in order to serve a complete three-year term as Chairperson. Further, notwithstanding the foregoing, any Trustee who is elected to the office of Second Vice Chairperson of the Board of Trustees shall be eligible to serve as a Trustee and as Second Vice Chairperson for a term of three years and, if determined to be renewed by the Nominating Committee and so reelected by the Board of Trustees, a renewal term as Trustee and Second Vice Chairperson, the length of which renewal term shall be set by the Nominating Committee (not to exceed three years).

- (c) The Members of the University may consider the removal of a Trustee on their own will or motion, upon the written request of the Chairperson of the Board of Trustees or a Board committee, or in response to written information provided to a Member of the University, provided, however, that the Members of the University shall have no obligation to consider to any degree the removal of a Trustee upon the written request of the Chairperson of the Board of Trustees or a Board committee, or receipt of written information by a Member of the University. The Members of the University shall maintain at all times the discretion to consider and weigh the factors they deem relevant in making a determination whether to remove a Trustee, including but not limited to any Code of Business Conduct materials issued to Trustees, any information included in the Bylaws of the Board of Trustees regarding expectations of Trustees, and University policies and procedures.

Section 7. Powers of the Board of Trustees. As the governing body of the University, the primary function of the Board of Trustees is to evolve and evaluate the basic objectives and broad policies of the institution. The powers and duties of the Board of Trustees shall include, but not be limited to, the following:

- (a) to maintain the trust vested in the Board by the Members of the University, the Articles of Incorporation, as amended, and this Code of Regulations;
- (b) to promote the purposes of the University in accord with changing needs of society and determine whether proposed changes in programs or the addition of new programs enhance or retard the basic purposes of the University;
- (c) to stimulate and approve plans for the development of all operations of the University for the promotion of its basic purposes and to insist on a periodic review of such plans in order to maintain a proper balance between competing constituencies;
- (d) to select and evaluate the President and determine tenure in office subject to the selection procedures as set forth in Article VII, Section 2. of this Code of Regulations;

- (e) to approve, upon the recommendation of the President, the appointment and compensation of executive officers who are the Provost, Vice President and Director of Athletics, Vice President for Finance, and Vice President for University Advancement.
- (f) to ensure the most judicious use of the assets of the University, approve the budget, and be responsible for the financial support of the University without individual financial liability therefore;
- (g) to act as the final court of appeal for alleged procedural violations of promotion and tenure procedures and to monitor overall trends regarding tenure and promotion;
- (h) to bind the University through contracts in matters not reserved to the Members of the University;
- (i) to relate the University to the local community and provide a responsiveness to the clientele being served;
- (j) to grant and confer academic degrees upon those who, in the judgment of the Faculty, merit such distinction;
- (k) to confer honorary degrees as recommended by the President; and
- (l) to act as a tribunal of last resort within the limit of their authority.

Section 8. Delegation of Power. As the ultimate policymaking body of the University, the Board shall delegate executive authority to the President and delegate to the Faculty the right to formulate policies which affect the academic progress of the University.

Section 9. Bylaws of the Board of Trustees. The Board of Trustees shall adopt a set of Bylaws for their own procedural operation by a majority vote of the total membership of the Board.

- (a) At each Annual Meeting of the Board, the Bylaws shall be affirmed or amended by vote of the Board members present. Nothing precludes the Board from amending or repealing its Bylaws at a meeting(s) other than its Annual Meeting, so long as such amendment or repeal is consistent with its Bylaws.
- (b) The Bylaws shall include provisions common to regulations of this type, but not inconsistent with this Code of Regulations or the Articles of Incorporation, as amended.
- (c) The Bylaws of the Board of Trustees shall determine the manner of election, terms of office, and duties to be performed by Officers of the Board of Trustees.

Section 10. Officers of the Board of Trustees. The Officers of the Board of Trustees shall be a Chairperson, First Vice Chairperson, Second Vice Chairperson (if the Nominating Committee

has determined one should be nominated and the Board has elected one), Chairperson Elect, and Secretary. The Provincial of the Marianist Province of the United States shall be the First Vice Chairperson of the Board of Trustees *ex officio*. The Chairperson, Second Vice Chairperson and Chairperson Elect of the Board of Trustees shall be elected by the Board of Trustees in accordance with the Bylaws of the Board of Trustees, where the candidate for Chairperson is expected to be the then-current Chairperson Elect, and the nominations for the Second Vice Chairperson and Chairperson Elect shall be made by the Nominating Committee (which Nominating Committee shall consist of the Chairperson of the Board, the First Vice Chairperson of the Board and the President of the University). In the event the then-current Chairperson Elect is not willing or able to be the candidate for the next Chairperson of the Board, then the nomination for Chairperson of the Board shall be made by the Nominating Committee. The Nominating Committee shall maintain a list of potential candidates to serve in the future as Chairperson of the Board of Trustees. The Secretary of the Board of Trustees shall be elected to that position by the Board of Trustees and need not be a trustee to be elected to such office.

Section 11. Committees of the Board of Trustees.

- (a) Executive Committee. There shall be an Executive Committee of the Board of Trustees to consist of the Chairperson of the Board, the First Vice Chairperson of the Board as the Provincial of the Marianist Province of the United States (or a delegate appointed by him from the Provincial Council of the Marianist Province of the United States, as long as such delegate is already a member of the Board of Trustees), the Second Vice Chairperson of the Board, the President of the University, the Chairperson Elect of the Board of Trustees, the chairs of the standing committees of the Board (where such committee chairs are determined through consultations among the President, Chairperson of the Board and potential committee chairs prior to the start of a new academic year) and other trustees as appointed at the discretion of the Chairperson of the Board on an annual basis, not to exceed two each year.
- (i) The Chairperson of the Board shall serve as Chairperson of the Executive Committee and the President of the University as Vice Chairperson of the Committee.
 - (ii) Between meetings of the Board of Trustees, the Executive Committee shall exercise all the powers of the Board, except that it shall not have power to grant degrees, elect or remove the President, authorize any changes in the Bylaws of the Board of Trustees or make a determination on matters on which this Code of Regulations specifically requires a vote by the Board of Trustees.
 - (iii) Minutes of Executive Committee meetings shall be given to each member of the Board of Trustees and the Members of the University.

- (iv) At each meeting of the Board of Trustees, the proceedings and actions of the Executive Committee since the last Board meeting shall be reported to the Board and shall be subject to its review.
- (b) Other Committees. Other standing and *ad hoc* committees of the Board of Trustees, in addition to the Executive Committee, may be established as determined from time to time by the Board of Trustees.
- (i) The duties and functions of such committees shall be defined and determined by the Board of Trustees.
- (ii) Each Board committee should have at least one Officer of the University or other designee of the President assigned to it to act as an administrative liaison between the University and the committee; unless otherwise appointed as a voting member of the committee, such administrative liaison will be considered an *ex officio* nonvoting member of the committee.

ARTICLE VI

EMERITUS AND HONORARY TRUSTEES

Section 1. Emeritus Trustees. Any Trustee shall, upon the completion of his or her service as Trustee and in good standing (i.e., the Members have not exercised their authority under Article V, Section 6(c)), be referred to as an “Emeritus Trustee.” In the event a Trustee’s service ends prior to completion of a term, whether that former Trustee shall be offered the title of “Emeritus Trustee” will be considered on a case-by-case basis by the Executive Committee of the Board of Trustees at the recommendation of the Committee on Trustees, taking into account the reasons for the Trustee’s early departure, the quality of the Trustee’s service and the Trustee’s relationship with the University.

Section 2. Honorary Trustees. Any person of great significance to the University of Dayton, whether as a result of professional accomplishments or due to meaningful contributions, who has not served as a Trustee may be appointed as an Honorary Trustee. From time to time the President or the Chairperson of the Board may identify an individual believed to be deserving of the designation of Honorary Trustee. They will forward the name(s) to the Committee on Trustees. Then, the formal appointment shall begin with the Committee on Trustees, after its consideration, forwarding to the Chairperson, who in turn will forward to the Members of the University, the name(s) the Committee recommends be considered for the Honorary Trustee title, based on their specific contributions to a field, the University, or society in general. The Members shall then nominate candidates for Honorary Trustees by a two-thirds vote and forward those nominations to the Board of Trustees. The Board of Trustees will then vote on the nominated candidates, with those passing by a majority vote of the Board of Trustees becoming Honorary Trustees.

Any individual appointed as an Honorary Trustee prior to December 31, 2016, shall become and be referred to as an Emeritus Trustee and shall no longer be referred to as an Honorary Trustee.

Section 3. Rights and Responsibilities. Emeritus and Honorary Trustees shall have the right to attend all meetings of the full Board and participate in discussion but shall not have the right to vote or make or second motions. They shall not be counted in determining a quorum for the Board. They may be appointed to membership on committees with all the rights of committee members except they shall not have the right to vote.

Emeritus and Honorary Trustees shall, in participating in Board matters, comply with all applicable expectations established by the Board of Trustees.

ARTICLE VII

OFFICERS OF THE UNIVERSITY

Section 1. Officers and Executive Officers. The Officers of the University shall consist of a Chairperson, Vice Chairperson, President, one or more Vice Presidents, Treasurer, Secretary, and such other assistant officers as determined from time to time. The Executive Officers of the University shall be the President, the Vice Presidents, and other positions approved by the Board of Trustees upon recommendation by the President. The President may designate any Vice President as an Executive Vice President or a Senior Vice President with the approval of the Board of Trustees, with such powers and responsibilities as defined by the President and as consistent with this Code of Regulations. In addition, the Board of Trustees shall have its own officers, whose responsibilities and authority shall be defined in the Bylaws of the Board of Trustees.

Section 2. Choosing the President. The Board of Trustees shall choose the President of the University in the following manner:

- (a) The Executive Committee of the Board of Trustees shall appoint a Search Committee and select its Chairperson.
- (b) The First Vice Chairperson of the Board of Trustees, as the Provincial of the Marianist Province of the United States, and the Rector shall be members of the Search Committee.
- (c) The Search Committee shall prepare a description of the position and a profile of the candidate.
- (d) The description of the position and profile of the candidate shall then be ratified by the Executive Committee of the Board of Trustees and by the Members of the University before commencing the solicitation of candidates.

- (e) The Search Committee for President shall provide its assessments of the finalist candidates (and any recommendations) to the Executive Committee of the Board of Trustees, who in turn shall make a recommendation for President to the Members of the University, which must be approved by a two-thirds vote of the Members of the University at a meeting of which a quorum is present. When approved by the Members of the University, the Executive Committee shall submit the recommendation to the Board of Trustees for approval.
- (f) The President shall be elected by two-thirds vote of the total membership of the Board of Trustees.
- (g) The Search Committee shall give preference to qualified candidates who are members of the Society of Mary, but any such search may include candidates who are not members of the Society of Mary; provided, however, that the President shall be a Roman Catholic and have the ability to provide leadership for the University of Dayton as a Catholic and Marianist University.
- (h) The President of the University shall be appointed pursuant to (a)-(g) above for an indefinite term of office unless otherwise set by the Board of Trustees.
- (i) The President may be removed from office at any time by the affirmative vote of two-thirds of the total membership of the Board of Trustees.
- (j) The Board of Trustees shall have the authority to approve the appointment of all other executive officers of the University upon the recommendation of the President.

Section 3. Choosing Other Officers. It shall be the duty of the President to develop appropriate procedures for the selection of Executive Officers of the University in consultation with other elements of the University Community.

Section 4. Terms of Certain Executive Officers. The terms of office for all other executive officers of the University who are the Provost, Vice President and Director of Athletics, Vice President for Finance, and Vice President for University Advancement shall be determined by the President with approval of the Executive Committee.

Section 5. University Chairperson. The Provincial of the Marianist Province of the United States shall be the Chairperson of the University, First Vice Chairperson of the Board of Trustees *ex officio*, and an *ex officio* member of the Executive Committee of the Board of Trustees.

Section 6. University Vice Chairperson. The Assistant Provincial of the Marianist Province of the United States shall be the Vice Chairperson of the University.

Section 7. Duties of Officers. The officers shall perform the duties assigned to them by the Board of Trustees and/or the President.

(a) President. The President of the University shall be an *ex officio* voting member of the Board of Trustees and an *ex officio* voting member of the Executive Committee of the Board. The President shall be the chief executive and administrative officer of the University and shall have such duties as may from time to time be required of him or her by the Board of Trustees, which duties so required may include, without limitation thereto, implementation of the policy decisions of the Board of Trustees, general supervision, administration and direction of all the University's affairs subject to the direction of the Board of Trustees.

(i) The President shall sign all contracts, notes, deeds, mortgages, bonds, other obligations, or other papers requiring his or her signature.

(ii) The President shall direct all the affairs of the University, maintain communications between Trustees, Faculty and other groups of the University Community, recommend to the Trustees nominations for major University appointments and make such appointments (unless the power to do so is limited or withdrawn by the Trustees), be a member of all faculties, and at all times keep informed of and in close contact with the state, interest, and needs of the University, exercise a general superintendence of all University concerns and take such action as shall contribute to the quality of teaching and the advancement of knowledge.

(iii) The President may delegate any of his or her executive and administrative authority to other University officials, subject only to restrictions in this Code of Regulations or as established by the Board of Trustees.

(iv) The President's duties shall include, but not be limited to, the following:

(A) to administer the affairs of the University as its chief executive by implementing the policies and regulations approved by the Board of Trustees and in accordance with the stated purposes of the University;

(B) to act as the official medium of communication for the University Community and promote amity and unity among all;

(C) to establish such committees, councils, boards, and similar bodies and appoint such officials and personnel as may be deemed necessary to promote or conduct any general or special function or purpose of any University activity or need;

(D) to promote the general welfare and the academic well-being of the University by supervising the officials of the University, all its departments, and the student body;

(E) to represent the institution to the general public;

(F) to make an annual report to the Trustees on the general condition of the University.

- (b) Rector. The President, with the concurrence of the Provincial of the Marianist Province of the United States, shall appoint a Rector from among the members of the Society of Mary. The Rector shall become an Executive Officer of the University, an *ex officio* voting member of the Board of Trustees, and a member of the President's Council. He shall report directly to the President. The Rector, as the sponsorship officer of the Marianist Province of the United States at the University of Dayton, shall serve as the representative of the Society of Mary on governance bodies, work to unify the Marianist religious as a unified and effective presence within the university community, and serve as the secretary for the Marianist Foundation. He shall have such other powers and duties as may be prescribed by the Board of Trustees and/or the President.
- (c) Vice President for Mission. The Vice President for Mission, appointed by the President, shall work to ensure the vital and discernible Catholic and Marianist character and mission of the University. The development of lay leadership and the formation of people committed to the Catholic and Marianist tradition of education are essential means to this end. Ideally, the Vice President for Mission and the Rector shall cohere in the same person. If a suitable professed Marianist candidate is not available for this position, then, with the concurrence of the Provincial of the Marianist Province of the United States, the President shall appoint a lay person as Vice President for Mission who will work together with the Rector to ensure the Catholic and Marianist identity and mission of the University of Dayton.
- (d) Vice President for Finance. The Vice President for Finance shall have general supervision of all finances.
- (i) The Vice President for Finance shall have full power and authority to establish accounts on behalf of the University with banks and brokerage firms and to give written or oral instructions to such organizations with respect to any transaction to sell, buy, exchange, and convert into cash or other types of securities, any and all stocks, bonds, or other securities, whether for immediate or future delivery held by the University of Dayton, and to execute and deliver all such assignments, transfers, conveyances, and other instruments required in connection with the holding, investment, reinvestment, control, and management thereof.
- (ii) The Vice President for Finance shall receive and have in charge all money, bills, notes, deeds, leases, mortgages, insurance policies and similar property

belonging to the University, and shall do with the same such as may from time to time be required by the Board of Trustees and/or the President.

(iii) The Vice President for Finance shall cause to be kept adequate and correct accounts of the business transactions of the University and on the expiration of the term of office shall turn over to the succeeding Vice President for Finance or to the Board of Trustees all property, books, papers and money of the University.

(iv) In addition, the Vice President for Finance shall perform such other and further duties as may from time to time be required of him or her by this Code of Regulations, the Board of Trustees and/or the President.

(e) Provost. The Vice President for Educational Affairs and Provost (or simply “Provost”) shall be the chief academic officer of the University and shall have authority over the academic affairs of the University. The Provost shall perform such other and further duties as may from time to time be required of him or her by the Board of Trustees and/or the President. The Provost shall exercise the powers and duties of the President during the President’s prolonged absence or incapacity or in case of a vacancy in that office, if and when determined by the Executive Committee of the Board of Trustees.

(f) Other Vice Presidents and Other Executive Officers. The Vice Presidents and any other persons designated as Executive Officers of the University, under the direct supervision of the President, shall be in charge of major organizational units of University operations including academic and faculty affairs, student affairs, business affairs, developmental affairs, institutional planning and research, athletics, service agencies, and other unit organizations which may be established. The Board shall be informed of such officers and their responsibilities by the President and can delegate such duties and responsibilities to such officers as the Board sees fit.

(i) Each Vice President or other Executive Officer of the University shall be responsible to the President for the administration of a designated organizational unit and shall be subject to the direction of the President.

(ii) Within the framework of the policies and procedures established by the Board of Trustees, each Vice President and other Executive Officers of the University shall develop the necessary bylaws, operational manuals or guidelines for the operation of an organizational unit, including appropriate job descriptions.

(iii) Such bylaws, operational manuals or guidelines must be submitted to the President for approval and, when so determined, to the Board of Trustees.

- (g) Secretary. The Secretary of the University shall keep minutes of all the formal proceedings of the Members of the University and shall make proper record of the same which shall be attested by him or her; sign, acknowledge or verify all bonds, contracts, notes, deeds and other documents executed by the University requiring his or her signature; keep such books as may be required; and perform such other and further duties as may from time to time be required of him or her by the Board of Trustees, Members or President. The Secretary shall be the custodian of the Seal of the University and shall have authority to attest to all official documents and instruments of the University. The Secretary of the University and General Counsel shall cohere in the same person.
- (h) Treasurer. The Treasurer shall manage all investments, accounts with financial institutions and records of such investments and accounts as directed by the Vice President for Finance.
- (i) General Counsel. The General Counsel shall be the chief legal officer of the University; shall have general charge of all legal matters pertaining to the University; and shall, subject to the direction of the President of the University, oversee the provision of all legal services to the University.
- (j) Assistant Officers. Assistant officers, such as Assistant Secretaries and Assistant Treasurers, shall act as assistants to and under the direction of their superior officers, shall be vested with all the powers and shall be required to perform any of the duties of their superior officers in their stead unless certain powers and/or duties are withheld by the superior officers in writing. They shall perform such other and further duties as may from time to time be required of them by the Board of Trustees and/or the President.
- (k) Officer Titles. From time to time, an officer of the University may be given a title that differs from the title anticipated in this Code of Regulations to better communicate to the campus community the scope of that individual's responsibilities and authority. If such a different title is given or otherwise exists, that differing title in no way limits that individual's authority and responsibilities as set forth in this Code of Regulations, and such authority and responsibilities shall apply to the person holding the new title as if they still retained the title contained in this Code of Regulations.
- (l) Other Executive and Regulatory Positions. Each other person in an executive and/or regulatory position (regardless of whether the term "officer" is in his or her title) shall not be an officer of the University. Such person shall be responsible to the President or his or her designee for the administration of designated functions of the University and shall have such other powers and duties as may be prescribed by the Board of Trustees and/or the President (or his or her designee).

Section 8. Advisory Councils and Committees. The President and other Executive Officers of the University shall establish appropriate advisory councils and committees to assist them in the operation of their organizational units. Bylaws for the procedural operation of each council or committee shall be prepared and submitted to the President for approval and, when so determined, to the Board of Trustees.

ARTICLE VIII

ACADEMIC ELEMENTS OF THE UNIVERSITY

Section 1. Description of Major Academic Units. The major academic units of the University shall consist of the College, Schools, and similar academic units in existence at the time of the effective date of this Code of Regulations. Such academic units may be retained, altered, or abolished and additional units may be established by the Board of Trustees upon recommendation of the President of the University.

Section 2. The Academic Deans. The administrative head and educational leader of each major academic unit shall be a Dean, except that on the recommendation of the President, the heads of certain units may be designated by another title and may be made responsible to a specific academic Dean or similar administrative officer. The Board shall be informed of such by the President.

- (a) Each Dean or head of a major academic unit shall be appointed by the President upon the recommendation of the Provost. The Board shall be informed of such by the President.
- (b) Each Dean shall, in consultation with members of the Faculty, formulate an appropriate document intended to provide a general framework for the operation and advancement of the academic unit, including a description of the duties and responsibilities of the Dean and provision for the selection of a representative academic affairs committee which shall conduct its business in accordance with regulations contained in said document.
- (c) This document and any subsequent amendments thereto shall be approved by the next higher authority, in this case the Provost.
- (d) The Provost shall be responsible for determining that such document and subsequent amendments thereto are not in conflict with University rules and regulations to which they are subordinate.

Section 3. Instructional Units. The instructional unit of a College, School, or similar academic unit, shall be a department or other subdivision assigned an instructional role.

- (a) It shall consist of an administrator, usually a Chairperson, and the instructional staff of the unit.
- (b) The administrator of each instructional unit shall be chosen in accordance with policy developed by the Provost and the President.
- (c) Each such administrator shall be held responsible to the appropriate Dean or similar officer for the qualitative advancement of the instructional and research programs of the instructional unit within the limits of properly sanctioned administrative guidelines.
- (d) The administrative affairs of each instructional unit shall be conducted in accordance with procedures defined in an appropriate document which shall include a description of the duties and responsibilities of the administrator of the instructional unit.
- (e) The primary responsibility for the preparation of such documents shall reside with the academic Dean or similar officer whose approval shall also be necessary for any subsequent amendments to said documents.
- (f) The Dean shall accept the responsibility for determining that such documents and amendments thereto are not in conflict with University rules and regulations to which they are subordinate.

ARTICLE IX

UNIVERSITY STUDENTS

Section 1. Purpose of this Article. The purpose of this article is to establish the particular status of students as an essential element of the University Community and their general status as citizens of society as a whole. Certain freedoms and obligations are directly related to each of these two roles associated with all members of the student body.

Section 2. Students as Members of the Academic Community.

- (a) In admitting qualified students, the University accepts the responsibility for providing an appropriate atmosphere in which its students shall have the freedom to learn and its faculty the freedom to teach.
- (b) By accepting admission to the University of Dayton, students have an obligation to contribute in a constructive way to their freedom to learn and the faculty's freedom to teach.
- (c) In fulfilling this obligation students, like other members of the University Community, must respect the rights of their fellow students, the faculty, and the other elements of the community and conduct themselves in a manner that promotes the academic progress of the institution.

- (d) For them also, any infringement of the rights of others or interference in the performance of their duties shall be a violation of University regulations, subject to appropriate measures as determined by University procedures.
- (e) Matters of campus life not directly related to academic policy, including student conduct and student organizations, shall be governed by rules and regulations formulated in accord with the provisions contained in the student code or similar document referred to in Article III, Section 6. of this Code of Regulations.
- (f) The chief student affairs officer shall be responsible to the President for the formulation of said code or similar document, and for the explication and dissemination, in a student handbook or similar publication, of rules and regulations for standards of behavior consistent with the principles enunciated in said document and the aims and educational philosophy of the University.

Section 3. The Student as a Citizen.

- (a) With due regard to freely accepted limitations as members of the academic community, students of the University of Dayton retain the rights, protection, and guarantees of fair treatment which are accorded to all citizens.
- (b) The enforcement of the student's duties as a citizen of society as a whole is the responsibility of the legal and judicial authorities established for that purpose.
- (c) It shall be the intent of the University to encourage extensive involvement of students in the determination of rules and regulations governing their own conduct as citizens of society as a whole while enrolled at the University of Dayton.
- (d) Such rules and regulations shall not conflict with the purposes of the University or other rules and regulations to which they are considered subordinate.

Section 4. The Student Body and Admission of Students.

- (a) The student body of the University of Dayton shall consist of all undergraduate and graduate students who have been formally admitted to the University and registered for courses on a full or part-time basis in a College, School, or similar academic unit.
- (b) Standards for admission of students shall be determined by the Faculty of each College, School, or similar academic unit and shall be based on the characteristics and expected achievements of students considered to be relevant to success in a given program with due regard for the purposes of the University and its role as a private church-related institution of higher learning.

- (c) Within the limits of its facilities and services, the University shall be open to all students who meet the qualifications for admission without regard for age, race, color, creed, national or ethnic origin, or handicap.
- (d) The administration of the admission policies of the University shall be the responsibility of the Provost of the University.

Section 5. Programs of Study.

- (a) The development and implementation of programs of study leading to degrees or diplomas is the prerogative of the Faculty of each College, School, or similar academic unit as approved by the Board of Trustees.
- (b) Courses, programs of study, and requirements for degrees shall be outlined in bulletins and catalogs of the University.
- (c) Students shall have the right, through established channels of communication, to propose changes in courses, programs of study, and requirements for degrees, and to develop new courses and programs of study for the consideration of the appropriate academic body.
- (d) The procedures to be followed for the implementation of this right may include appropriate membership on the University's academic councils and committees and shall be defined in written guidelines developed by the chief administrative officer of each academic or instructional unit in consultation with faculty and students.
- (e) These guidelines shall not conflict with other University policies regarding the procedures to be followed in obtaining approval for new courses or programs of study and changes in courses or programs of study.

ARTICLE X

LIMITATION OF LIABILITY

No person shall be liable to the University for any loss or damage suffered by it on account of any action taken or omitted to be taken by him/her as a Member, Trustee, or officer of the University, if such person performs his/her duties, including his/her duties as a member of any committee of the Board of Trustees upon which he/she may serve, in good faith and in a manner he/she reasonably believes to be in the best interests of the University, and with the care that an ordinarily prudent person in a like position would use under similar circumstances. In performing his/her duties, a Trustee or officer is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, that are prepared or presented by: (a) one or more Trustees, officers or employees of the University whom the Trustee or officer reasonably believes are reliable and competent in the matters prepared or presented; (b) counsel, public

accountants or other persons as to matters that the Trustee or officer reasonably believes are within the person's professional or expert competence; (c) a committee of the Board of Trustees upon which he/she does not serve, duly established in accordance with a provision of the Articles of Incorporation, this Code of Regulations, and/or the Bylaws of the Board of Trustees, as to matters within its designated authority, which committee the Trustee or officer reasonably believes to merit confidence.

ARTICLE XI

INDEMNIFICATION OF TRUSTEES, OFFICERS, EMPLOYEES, AND AGENTS OF THE UNIVERSITY

Section 1. 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 civil, criminal, administrative, or investigative action, suit, or proceeding, including but not limited to an action by or in the right of the University, by reason of the fact that he/she is or was a Member, Trustee, committee member, or officer of the University, against expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit, or proceeding, if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the University, and, with respect to any criminal action or proceeding, if he/she had no reasonable cause to believe his/her conduct was unlawful, except that no indemnification shall be made in respect of any of the provisions of Section 3. of this Article below. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon plea of nolo contendere or its equivalent, shall not create, of itself, a presumption that the person did not act in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the University, and, with respect to any criminal action or proceeding, a presumption that the person had reasonable cause to believe that his/her conduct was unlawful.

Section 2. The University may indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed civil, criminal, administrative, or investigative action, suit, or proceeding, including but not limited to an action by or in the right of the University, by reason of the fact that he/she is or was an employee, agent or volunteer of the University, or is or was serving at the request of the University as a trustee, director, officer, employee, agent or volunteer of another domestic or foreign nonprofit corporation or corporation for profit, or a partnership, joint venture, trust, or other enterprise, against expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit, or proceeding, if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the University, and, with respect to any criminal action or proceeding, if he/she had no reasonable cause to believe his/her conduct was unlawful, except that no indemnification shall be made in respect of any of the provisions of Section 3. of this Article below. The termination of any action, suit, or

proceeding by judgment, order, settlement, or conviction, or upon plea of nolo contendere or its equivalent, shall not create, of itself, a presumption that the person did not act in good faith and in a manner he /she reasonably believed to be in or not opposed to the best interests of the University, and, with respect to any criminal action or proceeding, a presumption that the person had reasonable cause to believe that his/her conduct was unlawful.

Section 3. No indemnification shall be made in respect of any of the following:

- (a) Any claim, issue or matter as to which such person is adjudged to be liable for negligence or misconduct in the performance of his/her duty to the University unless, and only to the extent that, the court of common pleas or the court in which the action or suit was brought determines, upon application, that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court considers proper;
- (b) Any action or suit in which liability is asserted against a director or Trustee and that liability is asserted only pursuant to Section 1702.55 of the Ohio Revised Code.

Section 4. To the extent that a Member, Trustee, committee member, officer, employee, agent, or volunteer has been successful on the merits or otherwise in defense of any action, suit, or proceeding (or any claim, issue, or matter in such an action, suit, or proceeding) that could be indemnified pursuant to this Article XI, he/she shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by him/her in connection with that action, suit, or proceeding (or such successful claim, issue, or matter in such action, suit, or proceeding).

Section 5. Unless ordered by a court and subject to the above provisions, any indemnification under this Article XI shall be made by the University only as authorized in the specific case, upon a determination that indemnification of the Member, Trustee, committee member, officer, employee, agent, or volunteer is proper in the circumstances because he/she has met the applicable standard of conduct set forth in this Article XI, and, if made pursuant to Section 2. of this Article XI, upon a determination that such indemnification is in the best interest of the University. Such determination shall be made in any of the following manners:

- (a) By a majority vote of a quorum consisting of Trustees of the University who were not and are not parties to or threatened with the action, suit, or proceeding referred to in this Article XI;
- (b) Whether or not a quorum as described above is obtainable, and if a majority of a quorum of disinterested Trustees so directs, by a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the University or any person to be indemnified within the past five years;

(c) By a majority vote of the Members of the University; or

(d) By the court of common pleas or the court in which the action, suit, or proceeding referred to in this Article XI was brought.

Section 6. The University may purchase and maintain insurance on behalf of any person who is entitled to indemnity and/or indemnified pursuant to Sections 1., 2., 4., and/or 5. of this Article XI, and the indemnification provisions of this Article XI shall be to the extent not covered by any such insurance.

Section 7. If an action or suit by or in the right of the University is involved, any determination made by the disinterested Trustees under this Article XI or by independent legal counsel under this Article XI shall be communicated promptly to the person who threatened or brought such action or suit and, within ten days after receipt of such notification, such person shall have the right to petition the court of common pleas or the court in which such action or suit was brought to review the reasonableness of such determination.

Section 8. If a Member, Trustee, committee member, officer, employee, agent, or volunteer who is potentially indemnified pursuant to this Article XI signs a document acceptable to the University by which he or she agrees to repay the University if it is ultimately determined that he or she is not entitled to be indemnified by the University, then the Board of Trustees, if it so chooses, may direct the University to pay that person's expenses, including attorney's fees, as they are incurred, in advance of the final disposition of the action, suit, or proceeding.

Section 9. The indemnification authorized by this Article XI is not exclusive of, and shall be in addition to, any other rights granted to those seeking indemnification, pursuant to the Articles of Incorporation, these Regulations, any agreement, approval of a majority of the Members or disinterested Trustees, or otherwise, both as to action in their official capacities and as to action in another capacity while holding their offices or positions, and shall continue as to a person who has ceased to be a Member, Trustee, committee member, officer, employee, agent, or volunteer and shall inure to the benefit of the heirs, executors, and administrators of such person.

Section 10. Any indemnification authorized herein shall be permitted only to the extent that it does not constitute an act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code or a taxable expenditure as defined in Section 4945(d) of the Internal Revenue Code. The foregoing indemnification is subject to the terms, conditions, and procedures set forth in Ohio Revised Code Section 1702.12 (E) (1) through (8) as presently exists or may hereafter be amended, and said Section and further amendments are incorporated herein as if fully set forth herein.

ARTICLE XII

DISSOLUTION OF THE CORPORATION

In case of dissolution of this corporation, all properties, real or personal, of this corporation shall revert to the Marianist Province of the United States, its successors and assigns, either to be used for the purposes of said Marianist Province of the United States, according to its equity, or otherwise as consistent with its Articles of Incorporation.

ARTICLE XIII

GENERAL REGULATIONS

Rules, regulations, and contracts not specifically modified or repealed by this Code of Regulations shall remain in effect. Rules and regulations of a general nature governing University matters not specified in this Code of Regulations may be enacted by the Board of Trustees after consultation with the appropriate constituents of the University of Dayton community or their representative organizations.

ARTICLE XIV

SEAL AND COAT OF ARMS OF THE UNIVERSITY

Section 1. Form and Use of Seal. The Seal of the University shall be in the form indicated below and may be used for the authentication of deeds, contracts, and other legal instruments in the formal conduct of the corporate business of the University.



Section 2. Form and Use of Coat of Arms. The Coat of Arms of the University shall be in the form indicated above and shall be attached to diplomas and similar instruments requiring authentication in the conduct of the academic affairs of the University.

ARTICLE XV

AMENDMENTS

Section 1. Amending or Repealing This Code of Regulations. This Code of Regulations may be amended or repealed at any regular or special meeting by a two-thirds vote of the total number of Members of the University present, provided that a quorum shall be present and that such proposed amendment has been given in writing (either in printed or electronic form) to each Member at least five days prior to the meeting whenever practically possible.

Section 2. Notice of Amendments. Notice of all proposed amendments and action thereon shall also be communicated to the Board of Trustees of the University.

Section 3. Amendments Proposed by Board of Trustees. The Board of Trustees of the University of Dayton may consider proposals for amendments to this Code of Regulations at any regular or special meeting of the Board. Only those proposed amendments approved by a two-thirds vote of all Trustees present and voting shall be presented by the Secretary of the Board of Trustees to the Members of the University for their consideration.

ARTICLE XVI

IMPLEMENTATION AND EFFECTIVE DATE

This Code of Regulations shall become effective for the governance of the University when approved by a two-thirds vote of the Members of the University. The effective date of the Code of Regulations shall be said date of approval.

Bylaws of the Board of Trustees

BYLAWS OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF DAYTON

Approved November 13, 1970
Amended August 31, 1972
Amended January 21, 1983
Amended May 13, 1988
Amended January 15, 1999
Amended May 19, 2006
Amended May 18, 2007
Amended January 16, 2009
Amended January 20, 2011
Amended October 17, 2013
Amended January 16, 2015
Amended May 15, 2017
Amended May 17, 2018

Preamble

The Board of Trustees of the University of Dayton has been established by the Members of the University of Dayton non-profit corporation (the “University”) under the provisions of the Articles of Incorporation of the University of Dayton, as amended, the Code of Regulations of the University, and the portions of the Ohio Revised Code relating to Non-Profit Corporations to exercise final control over all matters pertaining to the governance of the University except where such authority has been specifically reserved to the Members of the University. These Bylaws, when adopted by the Board of Trustees, shall determine the operational procedures for the Board within the limits prescribed by said Articles of Incorporation, as amended, and the Code of Regulations of the University.

ARTICLE I: MEMBERSHIP AND ELECTION

Section 1: Membership and Election

- (a) The membership of the Board of Trustees and election thereto shall be determined according to the provisions of Article V, Section 2 of the Code of Regulations of the University.
- (b) The total number of members of the Board of Trustees is determined from time to time by the Members of the University.
- (c) The Committee on Trustees shall prepare a list of names of candidates for nomination as Trustees and submit such list to the Chairperson of the University at least five days prior to any regular or special meeting of the Members of the University whenever practically possible.

(d) When approved by the Members of the University, a list of nominees shall be submitted to the Board of Trustees for the election of Trustees at any regular or special meeting of Trustees.

(e) Each Trustee is expected, in good faith:

(i) to perform his or her obligations as Trustee with the level of fiduciary care that is the standard for higher education institutions;

(ii) to treat with highest confidence information about the University that the Trustee learns in the exercise of his or her duties as Trustee, that he or she knows or reasonably should know is confidential and not generally known to the public;

(iii) to be familiar with and comply with the University of Dayton's Code of Business Conduct/Conflict of Interest Policy for Trustees, as it shall exist from time to time, and to submit a signed Conflict of Interest Statement to the University each year when due;

(iv) in serving on a Board committee, to abide by the terms of the charter applicable to that Committee; and

(v) to refrain from any conduct in violation of any criminal statute, conduct involving moral turpitude or public conduct (including a public oral or written statement) that is knowingly inconsistent with, embarrassing to (from a reasonable person's perspective) and/or harmful to the University's identity as a Catholic institution;

(f) Trustees remain subject to the removal authority of the Members of the University pursuant to Article V, Section 6(c) of the Code of Regulations of the University.

ARTICLE II: MEETINGS

Section 1: Regular and Special Meetings

(a) Unless otherwise decided by its members, the Board of Trustees shall hold regular meetings in the Fall, Winter and Spring at such date, time, and place as may be fixed by the Board.

(b) The Spring meeting shall be designated as the Annual Meeting.

(c) Special meetings of the Board of Trustees may be called by the Chairperson of the Board, the President of the University, or upon the written request of any five Trustees.

(d) Written notice of all meetings, including the agenda, shall be sent by electronic notification by the Secretary of the Board to each member of the Board at least five days prior to the date of the meeting whenever practically possible.

(e) Any action which might be taken at a meeting of the Trustees may be taken without such meeting if authorized in writing by all the current Trustees, provided only that evidence of such action be retained in the permanent record or minutes relating to meetings of the Trustees.

(f) A meeting of the Trustees may be conducted, in whole or in part, by electronic mail, or by electronic audio or video screen communication, (i) if the University implements measures to provide Trustees an opportunity to participate in the meeting and to vote on matters, including an opportunity to read, hear, and/or see the proceedings of the meeting concurrently with those proceedings, and (ii) if any Trustee votes or takes other action at the meeting by means of electronic mail or electronic audio or video screen communication, a record of that vote or action is maintained by the University.

Section 2: Quorum

(a) A quorum for the transaction of business by the Board shall consist of a majority of the total number of members of the Board.

Section 3: Conduct of Meetings

(a) All meetings shall be conducted in accord with parliamentary procedure outlined in Roberts Rules of Order, Newly Revised, or other procedure adopted by the Board.

(b) The usual order of business at meetings of the Board shall be as follows:

- (1) Call to order
- (2) Approval of minutes of last meeting
- (3) Report of the Chairperson
- (4) Committee reports
- (5) Unfinished business
- (6) New business
- (7) Adjournment

Section 4: Voting Procedures

(a) Decisions by vote of the Board members in ordinary matters shall require a majority vote of those present provided a quorum is present.

ARTICLE III: OFFICERS

Section 1: Election, Term of Office, and Removal

(a) The Officers of the Board of Trustees, except for its First Vice Chairperson and its Secretary, as defined in Article V, Section 10 of the Code of Regulations of the University, shall be elected from among the membership of the Board by majority vote of the Trustees present and constituting a quorum at the Annual Meeting of the Board of Trustees.

- (b) The Chairperson of the Board shall be elected to serve for one-three year term.
- (c) The First Vice Chairperson of the Board, who is the Provincial of the Marianist Province of the United States, shall serve in this office until the completion of his term as the Provincial of the Marianist Province of the United States.
- (d) The Second Vice Chairperson of the Board, assuming a candidate for the position has been nominated by the Nominating Committee as set forth in Article V, Section 10 of the Code of Regulations, shall be elected from among the membership of the Board by majority vote of the Trustees present and constituting a quorum at the Annual Meeting of the Board of Trustees.
- (e) The Chairperson Elect shall be elected from among the membership of the Board by majority vote of the Trustees present and constituting a quorum at a meeting of the Board of Trustees approximately one year before the expected end of the Chairperson of the Board's term as Chair. Once elected, the Chairperson Elect shall be eligible to serve as a Trustee and as Chairperson Elect until the expiration of the term of the current Chairperson of the Board, and then shall be eligible to serve one additional three-year term as Chairperson of the Board if so elected if such an additional three-year term is necessary in order to serve a complete three-year term as Chairperson. In extenuating, documented circumstances, a Chairperson Elect may be elected later than one year prior to the expected end of the current Chairperson's term.
- (f) The Secretary of the Board of Trustees shall be elected to that position by a majority vote of the Trustees present and constituting a quorum at a meeting of the Board of Trustees. The individual elected as Secretary need not be a trustee to be elected to such office.
- (g) There shall be no limit to the number of times the same person may be elected to the same or any other office, except as otherwise provided in the Articles of Incorporation, as amended, or the Code of Regulations of the University.
- (h) Any person elected as an officer of the Board (except for First Vice Chairperson, whose eligibility is determined by Article V, Section 10 of the Code of Regulations of the University) may be removed at any regular or special meeting by vote of the majority of the Trustees present and constituting a quorum.

Section 2: Duties of Officers

- (a) The Chairperson shall preside at all meetings of the Board and shall decide all questions of order. The Chairperson shall have such other duties as may from time to time be required of him or her by the Trustees. The Chairperson shall sign all contracts, notes, deeds, mortgages, bonds, other obligations, or other papers requiring his or her signature.
- (b) The Chairperson of the Board shall serve as Chairperson of the Executive Committee of the Board of Trustees.

(c) The Chairperson shall appoint the members of all committees of the Board, except the Executive Committee, and shall perform such other duties as may be, from time to time, assigned by the Board.

(d) The First Vice Chairperson shall serve in the absence of the Chairperson and shall assist the Chairperson at the latter's request. The First Vice Chairperson shall have the authority to perform all the duties of the Chairperson, in case of his or her absence or disability, together with such other duties as the Board of Trustees may from time to time prescribe. The authority of the First Vice Chairperson to execute and authorize deeds, mortgages, bonds, contracts and other obligations in the name of the University shall be coordinated with like authority of the Chairperson.

(e) The Second Vice Chairperson shall perform duties as assigned by the Chairperson from time to time.

(f) The Chairperson Elect shall succeed and serve as the Chairperson after the expiration of the current Chairperson's term if so elected at that time. The Chairperson Elect shall assist the Chairperson, the First Vice Chairperson, and the Second Vice Chairperson at the requests of such officers. The Chairperson Elect shall have such other duties as the Board of Trustees may from time to time prescribe.

(g) The Secretary shall be responsible for recording and distributing minutes of all meetings of the Board, issuing notice of meetings, keeping records of attendance, and handling all correspondence for the Board.

(h) The Board of Trustees may, from time to time, appoint such other assistant officers of the Board of Trustees (such as an Assistant Secretary) to act as assistants to and under the direction of their superior officers. They shall be vested with all of the powers or be required to perform any of the duties of their superior officers in their absence, and they shall perform such other and further duties as may, from time to time, be required of them by the Board of Trustees.

Section 3: Vacancy in Office

(a) In the event of a vacancy in the office of Chairperson, the First Vice Chairperson shall serve as Chairperson until a new Chairperson has been appointed or elected.

(b) In the event of a vacancy in the office of First Vice Chairperson or Secretary, the vacancy shall be filled in accordance with the relevant provisions of the Code of Regulations of the University.

(c) In the event of a vacancy in the office of Chairperson Elect, the vacancy shall be filled by election at the next meeting of the Board following the creation of the vacancy.

ARTICLE IV: COMMITTEES

Section 1: Executive Committee

(a) Members of the Executive Committee shall be the chairs of the standing committees of the Board, the Chairperson, the First Vice Chairperson of the Board (or delegate thereof), the Second Vice Chairperson of the Board (if one has been elected), the Chairperson-Elect and the President of the University, each of whom are *ex officio* voting members on the Executive Committee, and any individuals appointed by the Chairperson pursuant to Article V, Section 11(a) of the Code of Regulations.

(b) The number of members of the Committee shall be determined by the Board in accordance with Article V, Section 11(a) of the Code of Regulations of the University.

(c) The Chairperson of the Board shall be the Chairperson of the Executive Committee and the President of the University shall be the Vice Chairperson.

(d) Vacancies which occur among the elected members of the Committee for any reason, except the expiration of time, shall be filled for the unexpired term by election at the next meeting of the Board following the existence of the vacancy.

(e) Meetings of the Executive Committee shall be called when necessary by the Chairperson of the Board or the President of the University.

(f) A majority of the total number of members of the Committee, including *ex officio* voting members, shall constitute a quorum.

(g) In the intervals between meetings of the Board of Trustees, the Executive Committee shall have full power to take each and every action which the Trustees are authorized to take, except for the limitations stated in Article V, Section 11(a)(ii) of the Code of Regulations of the University.

(h) Any action which might be taken at a meeting of the Executive Committee may be taken without such meeting if authorized in writing by two-thirds of the current members of the Executive Committee, where such two-thirds shall include the Chairperson of the Board and the President, provided only that evidence of such action be retained in the permanent record or minutes relating to meetings of the Executive Committee.

Section 2: Committee on Trustees

(a) A Committee on Trustees shall be appointed by the Chairperson of the Board to perform the following duties:

- (1) to prepare and submit to the Chairperson of the University a list of candidates for nomination to the Board of Trustees of the University of Dayton in accordance with the provisions of Article V, Section 2 of the Code of Regulations of the University;
- (2) to maintain a list of candidates for nomination to the Board through a continuing search for individuals with special talents for service to the University as Trustees;
- (3) to assist the Chairperson of the Board in selecting Trustees and other persons to serve on committees of the Board;
- (4) to conduct an orientation program for new Trustees with the assistance of selected faculty and students of the University and to promote the continued education of Trustees through seminars and meetings designed to confront the major issues facing the University;
- (5) to submit an annual report to the Board on the Committee's assessment of the effectiveness of Board operations and to recommend means for improvement;
- (6) to consider candidates for the title of Honorary Trustee as may be recommended by the President or Chairperson of the Board from time to time.

Section 3: Other Committees

- (a) There shall be other standing and ad hoc committees as the Trustees may from time to time determine, to perform duties as specified in a charter or other documents governing the committee's actions (which document(s) shall be developed and revised by the Board or, if by the committee, with Board oversight).
- (b) The President of the University and the Chairperson of the Board of Trustees shall be *ex officio* voting members of all standing committees, provided that the President shall abstain from discussions and voting on any matters that may present a conflict of interest (including all discussion and votes related to the President's performance and compensation).
- (c) Persons other than Trustees, especially members of the University Community, such as administrators, faculty, and students, may be appointed to any committee except the Executive Committee, but shall be nonvoting members unless otherwise specified in that Committee's charter as approved by the Board of Trustees.

Section 4: Committee Meetings

- (a) Meetings of the committees of the Board shall be held upon call of the committee chairperson.
- (b) Written notice of the committee meetings, including the agenda, shall be sent by electronic notification to each member of the committee at least five days prior to the date of the meeting.

(c) Minutes of each committee meeting shall be available to all members of the Board on request.

(d) A meeting of a Board committee may be conducted, in whole or in part, by electronic mail, or by electronic audio or video screen communication, (i) if the University implements measures to provide committee members an opportunity to participate in the meeting and to vote on matters, including an opportunity to read, hear, and/or see the proceedings of the meeting concurrently with those proceedings, and (ii) if any committee member votes or takes other action at the meeting by means of electronic mail or electronic audio or video screen communication, a record of that vote or action is maintained by the University.

ARTICLE V: EXECUTIVE OFFICERS OF THE UNIVERSITY

Section 1: Selection of the President

The Board of Trustees shall choose the President of the University in the manner set forth in Article VII, Section 2 of the Code of Regulations of the University.

Section 2: Other Executive Officers of the University

(a) Other officers of the University shall be appointed by the President for defined terms of office, and in accordance with the provisions of Article VII, Sections 2, 3, and 4 of the Code of Regulations of the University.

(b) It shall be the prerogative of the Trustees, at their pleasure, to invite the Executive Officers of the University to attend Board meetings.

ARTICLE VI: POLICY MANUALS

Section 1: University Policy Manual

(a) The Board of Trustees, as the body exercising final authority for the approval of all policies affecting the entire University, shall have ultimate oversight authority over the procedure for maintaining an official policy repository which shall be kept up to date based on the Board's prerogatives, legal requirements and best practices, and which may be in paper and/or electronic format.

(b) The custodian of the official policy repository for the University shall be the President of the University.

(c) At the discretion of the President, access to the policy repository may be made available to other University personnel and portions thereof to the general public.

Section 2: Unit Policy Manuals

- (a) An up-to-date Policy Manual shall be maintained by the administrative officers of the University covering all official policies related to each administrative officer's unit.
- (b) This directive shall apply to Executive Officers of the University, Deans, heads of major academic units, administrators of instructional departments, and directors of all supporting units of the University.
- (c) The President of the University shall be responsible for determining that such Policy Manuals are maintained in an appropriate manner.
- (d) This directive is not intended to apply to council or committee bylaws, handbooks, guidelines, or similar regulations which are primarily designed to provide the means for carrying out established policies.

ARTICLE VII: AMENDMENTS

Section 1: Procedure

- (a) These Bylaws may be amended or repealed by a two-thirds vote of the Board members present at any regular or special meeting, provided that written notice of such proposed amendment has been given to the Trustees via electronic communication with the agenda for the meeting.