

AMENDED AND RESTATED

CODE OF REGULATIONS

OF

THE FIVE COLLEGES OF OHIO

EFFECTIVE DATE: 7 NOVEMBER 2006

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ARTICLE 1. MEMBERSHIP

SECTION 1.1 Members. The Corporation shall have one class of members. The members shall consist of those private colleges situated in the State of Ohio which have agreed to become members pursuant to a Membership Agreement in the form attached as Exhibit A to this Code of Regulations, as such agreement may be amended from time to time, the terms of which are incorporated herein. The initial members of the Corporation shall be Denison University, Kenyon College, Oberlin College, Ohio Wesleyan University and the College of Wooster. Additional institutions may be admitted as members only with the unanimous consent of members. The members shall possess all of the rights and privileges of members conferred under the laws of the State of Ohio, except to the extent otherwise provided in this Code of Regulations or the Membership Agreement.

ARTICLE 2. MEETINGS OF THE MEMBERS

SECTION 2.1 Annual Meetings. An annual meeting of the members for the consideration of any reports and for the transaction of such other business as may be brought before the meeting, shall be held during the fourth quarter of the Corporation's fiscal year on such date as may be designated by the Board of Trustees ("Board").

SECTION 2.2 Special Meetings. A special meeting of the members may be called (i) by the Chair, or (ii) by any 2 trustees. Upon the request in writing being delivered to the Chair or to the Secretary by any person(s) entitled to call a meeting of the members, the person to whom the request is delivered shall give notice to the members of the meeting. If the request is refused, the person(s) making the request may call a meeting of the members by giving notice in the manner provided in section 2.3.

SECTION 2.3 Notice of Meetings. Written notice of any meeting of the members shall be given not more than 60 days nor less than 14 days before the day upon which the meeting is to be held, by serving the notice to each member or by mailing the same to the address of each member as last shown upon the records of the Corporation. A member may, either before or after any meeting, waive any notice required to be given by law or under this Code of Regulations. Any waiver of notice must be in writing and entered upon the records of the Corporation.

SECTION 2.4 Place of Meetings; Executive Office. (a) The annual and all other meetings of the members shall be held at such places as may from time to time be designated by the Board. If another place has not been designated by the Board, all meetings shall be held at the executive office of the Corporation.

(b) The executive office of the Corporation shall rotate, and shall at any time be located at the principal office of the member college the President of which is serving as Chair of the Board of Trustees at such time pursuant to section 6.4 hereof.

SECTION 2.5 Quorum. The presence, in person or by proxy, of 75 percent of the members shall constitute a quorum for the transaction of business at such meeting. However, if the meeting is held by telephone or through other communications equipment at which all members participating can hear each other, such participation shall constitute attendance at such meeting. In the absence of a quorum at any meeting of the membership, a majority of those present may adjourn the meeting from time to time until a quorum shall be present and notice of any adjourned meeting need not be given.

SECTION 2.6 Authorized Representative. Unless otherwise specified in writing delivered to the Corporation and all members, the authorized representative of each member for all purposes shall be the President of such member then serving as a trustee pursuant to Article 3.

SECTION 2.7 Manner of Acting. Except as otherwise provided in the Articles of Incorporation, this Code of Regulations or the Membership Agreement, the act of all of the members present at any meeting of the membership at which a quorum is present shall be the act of the membership.

SECTION 2.8 Action Without Meeting. Any action which may be authorized or taken at a meeting of the membership, may be taken without a meeting if authorized by a writing signed by each of the members. Any such writing shall be entered upon the records of the Corporation.

SECTION 2.9 Voting. Each member shall be entitled, in person or by proxy, to one vote on each matter to be voted upon by the membership. At any meeting of the membership, any member who is entitled to attend and to execute consents or waivers, may be represented at such meeting, and execute such consents or waivers, and exercise any of its other rights, by proxy or proxies appointed by a writing signed by such person.

ARTICLE 3. BOARD OF TRUSTEES

SECTION 3.1 General Powers. The powers of the Corporation shall be exercised, its business and affairs conducted, and its property managed under the direction of the Board, except as otherwise provided by the laws of the State of Ohio, the Articles of Incorporation or this Code of Regulations.

SECTION 3.2 Bylaws. The Board may adopt bylaws to govern its own proceedings and its transactions of business, as well as the administration of the Corporation, the conduct of the Corporation's business and other affairs, management of the Corporation's property, and any other matters properly within the authority or discretion of the Board so long as consistent with the laws of the State of Ohio, the Articles of Incorporation, this Code of Regulations and the Membership Agreement.

SECTION 3.3 Number and Qualification. The Board of Trustees shall consist of one class of trustees. Without the need for election, the Board shall at all times consist of each person then serving as the President of each member of the Corporation. No person shall have any right or privilege as a trustee if that person ceases to be or otherwise is not then a duly appointed President acting in his or her official capacity. With the approval of the Chair, each President may on occasion, by written notice delivered to the other trustees, appoint an alternate to represent him or her as a trustee at a particular meeting of the Board. No trustee shall receive compensation for service as a trustee.

SECTION 3.4 Term. The term of office of each trustee shall commence with the adoption of this Code and continue until such time as he or she ceases to be or otherwise is not then a duly appointed President of a member college. If there is a change of Presidents at any member, the new President shall upon assuming office as President become a trustee of this Corporation.

SECTION 3.5 Ex Officio Trustees. The Board may appoint one or more persons as additional ex officio trustees, which ex officio trustees shall be entitled to notice, to be present in person, to present matters for consideration and to take part in consideration of any business by the Board at any meeting thereof, but which ex officio trustees shall not be counted for purposes of a quorum or for purposes of voting or otherwise in any way for purposes of authorizing any act or transaction of business by the Board. The term of such appointment shall be for such time as the Board shall designate.

ARTICLE 4. MEETINGS OF THE BOARD

SECTION 4.1 Annual Meetings. An annual meeting of the Board for the consideration of any reports and for the transaction of such other business as may be brought before the meeting shall be held during the fourth quarter of the Corporation's fiscal year on such date as may be designated by the Board.

SECTION 4.2 Other Meetings. Regular meetings of the Board may be held at such periodic intervals between annual meetings and at such time as the Chair may specify. A special meeting of the Board may be called (i) by the Chair, or (ii) by any 2 trustees.

SECTION 4.3 Place of Meetings. Unless another place is designated by the Board, the place of all meetings shall be the executive office of the Corporation. However, any meeting may be held by telephone or through other communications equipment if all trustees participating can hear each other.

SECTION 4.4 Notice of Meeting. Written notice of the time and place of each meeting of the Board shall be given to each trustee either by personal delivery, mail, telegram, or by any authorized communications equipment permitted under Chapter 1702 of the Ohio Revised Code, including, without limitation, electronic mail, at least two (2) days before the meeting. Any trustee may waive notice of the time and place of any meeting of the Board, either before or after the holding of the meeting. Any waiver of notice must be in writing and entered upon the records of the Corporation.

SECTION 4.5 Quorum. Except as otherwise provided in this Code of Regulations, 75 percent of the trustees (or properly appointed alternates) shall be present in person at any meeting of the Board in order to constitute a quorum for the transaction of business at such meeting. However, if the meeting is held by telephone or through other communications equipment at which all trustees participating can hear each other, such participation shall constitute attendance at such meeting. In the absence of a quorum at any meeting of the Board, a majority of those present may adjourn the meeting from time to time until a quorum shall be present and notice of any adjourned meeting need not be given.

SECTION 4.6 Manner of Acting. Except as otherwise provided in this Code of Regulations or the Membership Agreement, the act of all of the trustees present at any meeting of the Board at which a quorum is present shall be the act of the Board.

SECTION 4.7 Action Without Meeting. Any action which may be authorized or taken at a meeting of the Board, may be taken without a meeting if authorized by a writing signed by each of the trustees. Any such writing shall be entered upon the records of the Corporation.

ARTICLE 5. COMMITTEES

SECTION 5.1 Operating Committee. (a) The Board shall establish an Operating Committee, which shall at all times consist of each person then serving as chief financial officer of each member of the Corporation. With the approval of the Chair of the Operating Committee, each chief financial officer may on occasion, by written notice delivered to the other chief financial officers, appoint an alternate to represent him or her at a particular meeting of the Operating Committee.

(b) The Operating Committee shall have the power to transact the administrative and financial business of the Corporation during the interim between meetings of the Board and shall have and exercise authority in the management of the Corporation subject to any restrictions established by the Board. The designation of the Operating Committee and the delegation thereto of such authority shall not operate to relieve the Board, or any individual trustee, of any responsibility imposed by law. The Operating Committee shall be subject to the control and direction of the Board, which shall appoint the Chair of the Operating Committee. The Board may set forth a charge that further specifies the expectations for the committee.

(c) Meetings of the Operating Committee generally shall be subject to the same requirements regarding notice, quorum, and similar matters as set forth in Article 4 hereof with respect to meetings of the Board.

SECTION 5.2 Academic Committee. (a) The Board shall establish an Academic Committee, which shall at all times consist of each person then serving as chief academic officer of each member of the Corporation. With the approval of the Chair of the Academic Committee, each chief academic officer may on occasion, by written notice delivered to the other chief academic officers, appoint an alternate to represent him or her at a particular meeting of the Academic Committee.

(b) The Academic Committee shall have the power to oversee the academic aspects of the Corporation during the interim between meetings of the Board and shall have and exercise such authority subject to any restrictions established by the Board. The designation of the Academic Committee and the delegation thereto of such authority shall not operate to relieve the Board, or any individual trustee, of any responsibility imposed by law. The Academic Committee shall be subject to the control and direction of the Board, which shall appoint the Chair of the Academic Committee. The Board may set forth a charge that further specifies the expectations for the committee.

(c) Meetings of the Academic Committee generally shall be subject to the same requirements regarding notice, quorum, and similar matters as set forth in Article 4 hereof with respect to meetings of the Board.

SECTION 5.3 Other Committees. The Board may, by resolution, designate one or more other committees, each of which shall consist of not less than 3 persons who may but need not be trustees, which committees shall have and exercise the authority of the Board to the extent provided in such resolution. The designation of such committees and the delegation thereto of such authority shall not operate to relieve the Board, or any individual trustee, of any responsibility imposed by law. Each committee shall serve at the pleasure of the Board, shall act only in the intervals between meetings of the Board, and shall be subject to the control and direction of the Board. The Board may set forth charges that define and specify the expectations for these committees.

SECTION 5.4 Alternative and Ex Officio Members. The Board may appoint one or more persons (including persons who are not trustees) as alternate members of any committee, which alternate member or members may take the place of any absent member or members at any meeting of such committee. The Board may appoint one or more persons (including persons who are not trustees) as ex officio members of any committee, which ex officio member or members shall be entitled to be present in person, to present matters for consideration and to take part in consideration of any business by the committee at any meeting of the committee, but which ex officio member or members shall not be counted for purposes of a quorum or for purposes of voting or otherwise in any way for purposes of authorizing any act or transaction of business by such committee. Unless otherwise appointed as a member of a committee, the Chair shall be an ex officio member of all committees of the Board.

SECTION 5.5 Authority and Manner of Acting. Unless otherwise provided in this Code of Regulations or unless otherwise ordered by the Board, any such committee shall act by a majority of all of its members (excluding ex officio members) at a meeting at such place or through electronic communication as permitted under the laws of the State of Ohio or by a writing or writings signed by all of its members (excluding ex officio members). A committee is authorized to take any action or transact any business specifically delegated by the Board, except that no committee shall:

- (a) Make, alter, or repeal any of the provisions of the Articles of Incorporation, this Code of Regulations or the Membership Agreement;
- (b) Elect or appoint any trustee, or remove any officer or trustee; or
- (c) Amend or repeal any resolution previously adopted by the Members or by the Board.

If a committee is delegated complete authority to take a specific action or to transact a specific business matter by the Board, any such action or business transaction of the committee pursuant to the delegation of authority shall be as effective for all purposes as an act or business transaction by the Board. All committees of the Board shall prepare and file minutes of all meetings with the Vice Chair to be filed with or entered upon the records of the Corporation.

SECTION 5.6 Chair and Term. Unless otherwise specified by the Board, the chair of each committee shall be appointed by the Chair of the Board. Unless otherwise specified by the Board, appointment to a committee shall be for a period of one year.

ARTICLE 6. OFFICERS

SECTION 6.1 Officers. The officers of this Corporation shall be a Chair, a Vice Chair and such other officers or assistant officers as the Board may from time to time deem necessary and appoint. Except for the Chair and Vice Chair, officers need not be trustees.

SECTION 6.2 Appointment and Term of Office. (a) The officers shall be elected at the annual meeting of the Board. The officers shall hold office for one year or until a successor is elected.

(b) Other officers of the Corporation shall be appointed from time to time by the Board as it shall determine. New offices may be created and filled at any meeting of the Board. Each officer shall hold office until his or her successor shall have been appointed. More than one office may be held by the same person.

SECTION 6.3 Resignation. Any officer or assistant officer may resign at any time by giving written notice to the Board or the Chair. A resignation shall take effect at the time specified therein, and, unless otherwise specified therein, shall become effective upon delivery. The acceptance of such resignation shall not be necessary to make it effective unless so specified in the resignation.

SECTION 6.4 Chair (and President). The Chair shall for all purposes be deemed to hold the office of President of the Corporation pursuant to section 1702.34 of the Ohio Revised Code. The Chair shall be the chief executive officer of the Board and shall call and preside at all meetings. The Chair shall provide leadership to the Board and its committees, serve as a liaison among the Operating Committee, the Academic Committee, the staff, and the Board, and work closely with the Operating Committee, the Academic Committee, the staff, and other appropriate persons in carrying out approved programs and policies. The Chair shall have such other authorities and duties as are delegated from time to time by the Board. The office of Chair shall rotate among the trustees in such order as the Board shall determine.

SECTION 6.5 Vice Chair (and Secretary-Treasurer). The Vice Chair shall for all purposes be deemed to hold the offices of Secretary and Treasurer of the Corporation pursuant to section 1702.34 of the Ohio Revised Code. The Vice Chair shall, in the absence of the Chair, perform the duties of the Chair and while so acting, the Vice Chair shall have all powers and authorities of, and shall be subject to the restrictions upon, the Chair. The Vice Chair shall have such other authorities and duties as are delegated from time to time by the Board or the Chair. The office of Vice Chair shall rotate among the trustees in such order as the Board shall determine.

SECTION 6.6 Authorized Officers. The Chair and the Vice Chair, jointly or either of them individually, shall have the authority to sign, execute and deliver in the name of the Corporation any deed, mortgage, bond, instrument, agreement or other document evidencing any transaction authorized by the Board, except where the signing or execution thereof shall have been expressly delegated to another officer or person on the Corporation's behalf.

SECTION 6.7 Delegation of Duties. In the absence of any officer or assistant officer or for any other reason which the Board may deem sufficient, the Board may delegate the authorities and duties of any officer, or any assistant officer to any other officer, assistant officer, or to any trustee. In addition to the foregoing, each officer or assistant officer shall perform all duties as may

from time to time be delegated to each of them by this Code of Regulations or by the Board or any committee of trustees as provided in this Code of Regulations.

ARTICLE 7. CONFLICT OF INTEREST

SECTION 7.1 General Policy. Recognizing that trustees and officers have a duty of loyalty and fidelity to the Corporation and they must govern the Corporation's affairs honestly and economically exercising their best care, skill and judgment for the benefit of the Corporation, to avoid even the appearance of impropriety, the trustees and officers of the Corporation shall:

- (a) Disclose to the Board any situation wherein the trustee or officer has a conflicting interest or duality of interest that could possibly cause that person to act in other than the best interest of the Corporation.
- (b) Follow the procedures stated in section 7.2 governing the participation on behalf of the Corporation in any transaction in which the person has, or may have, a conflict of interest.

SECTION 7.2 Procedure. Any trustee having a known duality of interest or possible conflict of interest on any matter should make a disclosure of such conflict to the other trustees. Such trustee should not vote or use his or her personal influence on the matter, but such trustee may be counted in determining the quorum for the meeting. The minutes of the meeting should reflect the making of the disclosure, the abstention from voting and the quorum situation. Any officer having a known duality of interest or possible conflict of interest on any matter before such officer for administrative action shall report the conflict to the President or, in the case of the President, to the Chair. Such officer shall abstain from taking any administrative action on such matter. The requirements in this section 7.2 shall not be construed as preventing any trustee or officer from briefly stating his or her position in the matter, nor from answering pertinent questions of the Board or other officers.

ARTICLE 8. INDEMNIFICATION AND INSURANCE

SECTION 8.1 Persons Indemnified. Except as otherwise provided in section 8.2 or as otherwise prohibited by law, the Corporation shall indemnify each person who, by reason of being or at any time having been a trustee, officer, employee, or volunteer of the Corporation, is named or otherwise becomes or is threatened to be made a party to any action, suit, investigation or proceeding (or claim or other matter therein), and the Corporation by the Board may indemnify any other person as deemed proper by the Board, against any and all costs and expenses (including attorney fees, judgments, fines, penalties, amounts paid in settlement, and other disbursements) actually and reasonably incurred by or imposed upon such person in connection with any action, suit, investigation or proceeding (or claim or other matter therein), whether civil, criminal, administrative or otherwise in nature, with respect to which such person is named or otherwise becomes or is threatened to be made a party by reason of being or at any time having been a trustee, officer, volunteer, employee or other agent of or in a similar capacity with the Corporation, or by reason of being or at any time having been, at the direction or request of the Corporation, a trustee, officer, volunteer, administrator, manager, employee, member, advisor or other agent of or fiduciary for any other corporation, partnership, trust, venture or other entity or enterprise including any employee benefit plan.

SECTION 8.2 Scope of Indemnity. Unless the only liability asserted against a trustee in an action, suit, or proceeding referred to in section 8.1 is pursuant to section 1702.55 of the Ohio Revised Code, or unless it is proved, by clear and convincing evidence in a court with jurisdiction that the act or omission of the trustee, officer, employee, or volunteer for which liability is being asserted in an action, suit, or proceeding referred to in section 8.1 was one undertaken with a deliberate intent to cause injury to the Corporation or was one undertaken with a reckless disregard for the best interests of the Corporation, any trustee, officer, employee, or volunteer who is the subject of an action, suit or proceeding referred to in section 8.1 shall be entitled to the indemnification mandated by such section 8.1.

SECTION 8.3 Advancement of Expenses. Upon the request of a trustee, officer, **employee**, or volunteer who is the subject of an action, suit or proceeding referred to in section 8.1, the Corporation shall pay the expenses incurred by such trustee, officer, employee, or volunteer in defending the action, suit, or proceeding, including attorney's fees, as they are incurred, in advance of the final disposition of the action, suit, or proceeding, upon receipt of an undertaking by or on behalf of the trustee, officer, employee, or volunteer to repay the amount if it is ultimately determined that he or she is not entitled to be indemnified by the Corporation.

SECTION 8.4 Officer and Volunteer Defined. For purposes of this Article 8, the term “officer” shall mean each officer designated by the Board pursuant to section 6.2. The term “volunteer” shall have the same meaning as provided in section 1702.01(N) of the Ohio Revised Code, or any successor provision thereto.

SECTION 8.5 Discretionary Indemnification. Each request or case of or on behalf of any person other than a trustee, officer, **employee**, or volunteer, who is or may be entitled to indemnification, shall be reviewed by the Board, and indemnification of such person shall be authorized by the Board only if it is determined by the Board that indemnification is proper in the specific case.

SECTION 8.6 Indemnification Only in Accordance with Law. Notwithstanding anything to the contrary in this Article 8, no person shall be indemnified to the extent, if any, it is ultimately determined by a court of competent jurisdiction that indemnification is contrary to applicable law.

SECTION 8.7 Contractual Rights and Applicability. The right to be indemnified or to the advancement or reimbursement of expenses (i) is a contract right based upon good and valuable consideration, pursuant to which the person entitled thereto may sue as if these provisions were set forth in a separate written contract between such person and the Corporation, (ii) is and is intended to be retroactive and shall be available as to events occurring prior to the adoption of these provisions, and (iii) shall continue after any rescission or restrictive modification of such provisions as to events occurring prior thereto.

SECTION 8.8 Insurance. The Corporation may purchase and maintain such insurance on behalf of any person who is or at any time has been a trustee, officer, volunteer, employee or other agent of or in a similar capacity with the Corporation, or who is or at any time has been, at the direction or request of the Corporation, a trustee, officer, volunteer, administrator, manager, employee, member, advisor or other agent of or fiduciary for any other corporation, partnership,

trust, venture or other entity or enterprise including any employee benefit plan against any liability asserted against and incurred by such person.

ARTICLE 9. AMENDMENT

SECTION 9.1 Amendment. This Code of Regulations may be amended at any time by the affirmative vote of all of the members of the Corporation at such time.