

THE TRUSTEES  
OF  
UNION COLLEGE  
IN THE  
TOWN OF SCHENECTADY  
IN THE STATE  
OF NEW YORK  
BY-LAWS

**Revised and Approved February 22, 2020**

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**ARTICLE 1 - GENERAL**

**§1.1 The College.** These By-Laws, the rights and powers of the Trustees (each member individually, a “Trustee” and, collectively, the “Trustees” or the “Board”) of The Board of Trustees of Union College in the Town of Schenectady in the State of New York (the “College”), an education College as defined in the Education Law of the State of New York (having Trustees but no members), and the conduct and regulation of the affairs of the College are subject to the provisions of the Union College Charter (the “Charter”) and all other applicable provisions of law.

**§1.2 Purpose.** The purpose of the College, as set forth in the Charter, is for the instruction and education of youth in the learned languages, liberal arts, sciences, and engineering.

**ARTICLE 2 - THE TRUSTEES**

**§2.1 Powers and Responsibilities of the Board.** The management of the affairs of the College shall be subject to the review and oversight of the Board, which shall have the power to carry out all functions that are permitted by these By-Laws or by the Charter, except as limited by law. These powers and responsibilities shall include but shall not be limited to the following:

- a. Appoint the President, who shall be the chief executive officer of the College.
- b. Provide a diverse range of perspectives and insights to the President in reviewing and approving the strategic and long-range plans for the College.

- c. Review and approve changes of strategic importance in the education programs of the College involving significant financial resources, consistent with the College's mission, plans, and financial resources.
- d. Approve all earned degrees.
- e. Review and approve significant institutional policies regarding faculty appointment, promotion, tenure, and dismissal; and, upon recommendation of the President, approve the conferring of tenure to members of the faculty or the dismissal of a tenured faculty member.
- f. Review and approve any changes in tuition and fees of the College.
- g. Review and approve the operating and capital budgets of the College.
- h. Authorize the incurring of debts of the College and securing thereof by mortgage and pledge of real and personal property, tangible and intangible.
- i. Authorize the construction of new buildings, capitalization of deferred maintenance backlogs and major renovations of existing buildings.
- j. Authorize the purchase, management, and sale of all land, buildings or major equipment for the College.
- k. Contribute financially to the College's fundraising goals, secure sources of support, and serve actively as advocates for the College.
- l. Elect and, as appropriate, remove Trustees and Officers of the Board.
- m. Attend meetings of the Board and its committees.

**§2.2 Number; Qualifications.**

a. The Board shall consist of not less than ten (10) nor more than forty-five (45) members who shall include: the Governor of the State of New York, *ex-officio* and the President of the College, *ex-officio*, and the following categories and numbers: (i) up to eight (8) Life Trustees; (ii) up to twenty-six (26) Term Trustees, who shall be classified in accordance with §2.4; (iii) four (4) Alumni Trustees; (iv) two (2) Faculty Trustees; (v) two (2) Student Trustees; and (vi) one (1) President's Council Trustee, *ex-officio*, all collectively referred to as "Active Trustees." In addition, the Board may designate any former Life Trustees or former Term Trustees as nonvoting Emeriti Trustees in an unlimited number. The Active Trustees and the nonvoting Emeriti Trustees shall collectively be referred to as "Trustees."

b. Subject to these By-Laws, the Life Trustees, Term Trustees, and President's Council Trustee shall be elected by the Board of Trustees; and the Alumni Trustees, Faculty Trustees, and Student Trustees shall be elected from among their constituencies.

c. No person under the age of eighteen (18) shall be eligible to serve as a Trustee.

**§2.3 Tenure of Life Trustees.** Subject to the provisions of §2.2 and §2.9, §2.10, and §2.11 of these By-Laws, every Life Trustee shall serve without limit as to term.

**§2.4 Tenure of Term Trustees.** Term Trustees shall be classified as to their terms by dividing them into four (4) classes, each class consisting of at least four (4) Trustees. At the Board's Annual Meeting every year, Term Trustees shall be elected to succeed those Term Trustees whose terms shall then expire, although if a vacancy exists, it may be filled at any meeting of the Board; and the term of one (1) class of Term Trustees shall expire on the close of each Annual Meeting. Subject to the provisions of §2.9, §2.10 and §2.11 of these By-Laws, each Term Trustee shall serve from the close of the Annual Meeting at which such Term Trustee shall be

elected until the close of the Annual Meeting held in the fourth calendar year next following, and thereafter until their successor shall be elected and qualified. No Term Trustee may serve for more than three (3) full successive terms, and, after serving such successive terms, no Term Trustee may again be elected as a Term Trustee before the Annual Meeting of the Board next following expiration of their last full term as a Term Trustee, provided, however, that if a Term Trustee is serving as the Chair of the Board (“Chair”) or Vice-Chair (“Vice-Chair”) of the Board at the time that such Term Trustee’s term would otherwise end and such Term Trustee has served three (3) full successive terms, then that Term Trustee may be elected for one additional successive term as a Term Trustee.

**§2.5 Alumni Trustees; President’s Council Trustee.** Alumni Trustees shall be elected in accordance with the Bylaws or other official regulations of the Alumni Council, in effect on the date of such Alumni Trustee’s election. The President’s Council Trustee shall be selected by the Trusteeship Committee from the membership of the President’s Council in accordance with §5.12.b. and elected by the Board as prescribed in § 2.2.b.

**§2.6 Faculty Trustees; Student Trustees.** Faculty Trustees and Student Trustees shall be elected in accordance with the constitution and By-Laws of their respective constituency, in effect on the date of their election, except that no Faculty Trustee shall serve for more than three (3) consecutive years and no Student Trustee shall serve for more than two (2) consecutive years.

**§2.7 Emeriti Trustees.** Any Life Trustee, at any time, and, upon recommendation of the Trusteeship Committee, any former Term Trustee who has served with distinction, may, with the Board’s approval, become an Emeritus Trustee. Every Emeritus Trustee: (a) shall be welcome at all the meetings of the Board; (b) shall receive notice and a copy of the minutes of every meeting

of the Board; (c) shall be free to participate in all discussions at the Board meeting; (d) may serve on any Committee of the Board; but (e) shall have no vote on any Committee or Board matters.

**§2.8 Ex-Officio Trustee(s).** *Ex-officio* Trustee(s) shall consist of the individual(s) set forth in §2.2. Any individual serving as an *Ex-officio* Trustee shall be entitled to vote on any matter coming before the Board or a Committee of the Board, except as noted under §5.12.

**§2.9 Vacancies.** If by reason of death, resignation, refusal to act, removal or other cause, any Life, Term, or President's Council Trusteeship shall become vacant, the Board may at any meeting fill such vacancy by action in accordance with §2.2 and §2.4 of these By-Laws. If any vacancy shall likewise occur in any Alumni, Faculty, or Student Trusteeship, such vacancy may be filled by action consistent with §2.5 or §2.6 of these By-Laws, as the case may be.

**§2.10 Resignation.** Any Trustee may resign, at any time, upon written notice to the Board. The resignation shall take effect immediately upon receipt of such notice by the Assistant Secretary.

**§2.11 Removal.**

a. If any Trustee shall fail to attend three (3) consecutive meetings of the Board without excuse accepted as satisfactory by the Chair, such Trustee shall be deemed to have resigned and the Trusteeship shall become vacant upon the close of the third such meeting.

b. At any meeting of the Board, by vote of a majority of the Active Trustees, any Trustee may be removed for misconduct, incapacity, neglect of duty, or other proper cause; provided, however, that the Trustee shall have been given at least ten (10) days' written notice of any such proposed removal, the reasons therefore, and an opportunity to be heard by the Board thereon and, further, that no such removal shall be voted except upon proof established by a preponderance of the evidence, as determined by the Board in good faith. All such matters of

removal shall first be directed to the Board Chair (or, if the Chair is conflicted, to the General Counsel), who shall refer it to the Trusteeship Committee, which shall consider the matter and may make a recommendation to the Board, and notice of such proposed removal shall be promptly given to all Active Trustees.

### **ARTICLE 3 - MEETINGS OF TRUSTEES**

**§3.1 Regular Meetings.** Every year the Board shall hold three (3) regular meetings; the “Winter Meeting,” “Annual Meeting,” and “Fall Meeting.” The date, time, and place of each such regular meeting shall be determined by the Chair.

**§3.2 Special Meetings.** A special meeting of the Board may be called, at any time, by the Chair or President. Any such meeting may be held in person or by telephone or video-conference.

**§3.3 Notice of Meetings.** Written notice of the date, time, and place of every meeting of the Board shall, no fewer than (i) ten (10) days before a regular meeting, or (ii) two (2) days before a special meeting, be sent by the Secretary to each Trustee at such Trustee’s email or physical address as it shall appear on the records of the Board. Except as otherwise provided in §7.1 of these By-Laws, such notice need not specify the purpose of the meeting or the business to come before it.

**§3.4 Waiver of Notice.** A written waiver of notice of any meeting of the Board, signed by the person entitled to notice, whether before or after the time stated in the notice, shall be deemed equivalent to notice. Attendance by any person at any meeting shall constitute a waiver of notice to that person of such meeting unless such attendance shall be expressly for the purpose of objecting, prior to the meeting or at its outset, to the transaction of any business on the ground that the meeting shall not have been lawfully called or convened.

**§3.5 Quorum; Vote; Adjournment.** A majority of the Active Trustees shall constitute a quorum of the Board. Whenever a quorum shall be present at any meeting of the Board, a majority vote of Active Trustees so present shall, except when a larger vote shall be required by law or these By-Laws, decide any question brought before the meeting. A majority vote of Active Trustees present, whether or not a quorum, may adjourn any meeting of the Board to another time or place, without any notice other than by announcement at the meeting, until a quorum shall attend. After such adjournment, at any meeting at which a quorum shall attend, any business may be transacted which might have been transacted if the meeting had been held as originally called.

**§3.6 Order of Business.** The order of business at every meeting of the Board shall be determined by the Chair. Meetings of the Board will generally be conducted in accordance with *Robert's Rules of Order*, as revised, and then in effect.

**§3.7 Written Consent.** Any action required or permitted to be taken by the Board may be taken, without a meeting, if all of the Active Trustees consent in writing to the adoption of a resolution authorizing such action. The resolution and written consents thereto shall be filed with the minutes of meeting of the Board.

**§3.8 Participation by Telephone or Similar Communications Equipment.** A Trustee wishing to participate in a regular or special meeting of the Board by means of conference telephone or similar communications equipment enabling all persons participating in the meeting to hear one another should notify the Assistant Secretary in advance of the meeting if at all possible. The physical presence of Active Trustees at Board meetings is strongly encouraged; however, participation in a meeting pursuant to this provision shall constitute presence at such meeting.



## ARTICLE 4 - OFFICERS, EMPLOYEES, AND AGENTS

### §4.1 Number and Election.

a. Board Officers. The term “Board Officers” as used in these By-Laws shall mean the corporate officers of the Board of Trustees and shall include the Chair, the Vice Chair, the Secretary, and the General Counsel. The Board Officers, except the Chair, shall be elected by the Board annually at the Board’s Annual Meeting from candidates nominated in a manner consistent with §5.12 of these By-Laws. The Chair shall be elected by the Board at an Annual Meeting for a four-year term and shall serve until a successor is duly elected and qualified. All Board Officers shall be chosen from the Active Trustees. If two (2) or more persons shall be nominated for any of the above offices, the election shall be by secret ballot. Any Board Officer may be removed from such office at any time by the vote of a majority of the Active Trustees, provided, however, that at least ten (10) days’ written notice shall first be given to all Active Trustees and the Chair before such vote is taken. Any temporary or permanent vacancy occurring in any Board Officer position, including due to temporary incapacity, as determined by the Executive Committee, shall be filled by the vote of the majority of the Active Trustees.

b. The President. Subject to the direction and supervision of the Board and the Executive Committee, the President shall be the chief executive officer of the College and shall be elected by, and serve at the pleasure of, the Board. Such election may occur at any time. The President shall be responsible for the conduct and regulation of the academic, business, and fiscal affairs of the College and for the direction and supervision of all Administrative Officers and all employees and agents of the College. The President is authorized to execute in the name of the College deeds, contracts and other written instruments as authorized by these Bylaws or by the Board.

c. Administrative Officers. The term “Administrative Officers” as used in these By-Laws shall include a Vice President for Administration and Finance, a Vice President for Academic Affairs, a Registrar, and any other Administrative Officer appointed by the President. The President shall provide a listing of Administrative Officers, which shall include all officers at the Vice President level and any other officer so designated by the President, to the Secretary at least annually. A Trustee may serve as an Administrative Officer on an interim basis, but may not otherwise serve as an Administrative Officer. The President, in consultation with the Board, shall appoint the Administrative Officers who shall serve for such terms as determined by the President in consultation with the Board. The President may, in consultation with the Board, remove any Administrative Officer at any time with or without cause.

**§4.2 Powers and Duties.** Each Board Officer, Administrative Officer, employee, and agent of the College shall exercise such powers and discharge such duties as shall be specified by these By-Laws and as the Board may, from time to time, assign or, in the absence of such specification and assignment, as shall be assigned, from time to time, by or on behalf of the President. The Board may secure by bond or otherwise the fidelity of any Board Officer, Administrative Officer, employee, or agent of the College.

**§4.3 Resignation.** Any Board Officer or the President may resign at any time upon written notice to the Chair, except that the Chair may resign by giving notice to the Vice-Chair. Any Administrative Officer may resign at any time upon written notice to the President. Unless otherwise provided by the conditions of such employee’s employment or agency, every employee and agent of the College shall hold employment or agency at the pleasure of the Board.

**§4.4 Chair; Vice Chair.** The Chair shall preside at all meetings of the Board and shall exercise and discharge the other powers and duties assigned by these By-Laws. The Chair, in

consultation with the Board, shall set goals for the President at least annually and shall confer regularly with the President to discuss and adjust such goals as needed. In the absence of the Chair, the Chair's powers and duties shall be exercised and discharged by the Vice Chair.

**§4.5 Office of the Chair.** There shall be an Office of the Chair which shall consist of the Board Officers. The Office of the Chair shall assist the Chair in the discharge of the Chair's duties.

**§4.6 Secretary; College Seal.** The Secretary shall keep a record of every meeting of the Board and, except as otherwise provided by §3.2 of these By-Laws, shall provide notices of meetings of the Board; the Secretary shall appoint an Assistant Secretary. The Secretary, the Assistant Secretary, the General Counsel, the President, the Vice President for Administration and Finance, and the Registrar shall each have authority to impress the seal of the College on any instrument which, having been duly executed on behalf of the College, shall require such seal.

**§4.7 General Counsel.** The General Counsel shall be the chief legal advisor of the Board and shall discharge such duties as shall be assigned, from time to time, by the Chair on behalf of the Board.

**§4.8 Vice President for Academic Affairs.** The Vice President for Academic Affairs shall be the chief academic officer of the College and shall have the general responsibility under the direction of the President for the development, implementation, and administration of the academic affairs of the College. In furtherance of this responsibility, the Vice President for Academic Affairs shall propose plans of action in academic matters, review and implement educational programs and policies, and meet and consult with deans, chairs of departments, and members of the faculty. The Vice President for Academic Affairs shall also be responsible for: (i) the appointment of deans and chairs of departments as well as the appointment of directors within

the academic affairs area; (ii) academic appointments, assignments, and promotions; (iii) the supervision of deans and chairs of departments in the administration of their areas; (iv) the approval of faculty assignments; and (v) such additional duties as may be assigned by the President. The Vice President for Academic Affairs shall be the senior Administrative Officer of the College under the President; and, in the event of the incapacity of the President, as determined by the Executive Committee, or in case of the vacancy of the President's Office, the Vice President for Academic Affairs shall have the powers and perform the duties of the President unless and until the Board appoints an Acting President.

**§4.9 Vice President for Administration and Finance.** Subject to the direction of the President and supervision of the Board and its Investment Committee, Administration and Finance Committee, and Facilities and Environment Committee, the Vice President for Administration and Finance shall be the chief financial officer of the College and shall be responsible for the conduct and regulation of the business and financial affairs of the College. The Vice President for Administration and Finance shall:

a. Have authority in the name and on behalf of the Investment Committee and the Administration and Finance Committee to take any action duly voted by either committee.

b. Be authorized to (i) exercise discretion to borrow monies, consistent with the budget approved by the Board, to be used for short-term operating purposes which have a repayment period of less than one (1) year, and (ii) borrow money for other College purposes after each such loan is approved by the Board or the Executive Committee as provided by these By-Laws.

c. Be responsible for the custody of all funds, securities, and intangible property belonging or owing to the College.

d. Be responsible for oversight of investment managers, if any, employed by the Board.

e. Be responsible for the maintenance of accurate books of account; the collection, receipt, deposit, and disbursement of funds of or owing to the College; payment of bills; administration of payroll; development of budgetary information; cost analysis; and for all other business and financial affairs of the College.

f. Be responsible for the facilities, construction, human resources, and purchasing.

g. Prepare and submit to the Board's Annual Meeting each year proposed operating and capital outlay budgets (together constituting the "Annual Budget") for the College for the next fiscal year, and shall report at all regular meetings of the Administration and Finance Committee of the Board on the current status of the budget.

h. Report to the Board, as soon as practicable following the close of each fiscal year, but no later than the Winter Meeting of the Board next following the close of such year, on the year's financial results and material variances to the Annual Budget, and present a full and detailed financial statement properly audited by an independent accountant selected by the Board. Such report shall be filed with the minutes of the meeting at which it shall be presented; and the Vice President for Administration and Finance shall make available a copy of the report to each Trustee.

i. Execute, in the name of the College, deeds, contracts, and other instruments in writing as authorized by these By-Laws or by action of the Board and may attach thereto the College's corporate seal. Certain contracts may also be executed in the name of the College by any other administrative officer or administrative employee designated by the Vice President for Administration and Finance pursuant to a protocol or procedure for that purpose approved by the Executive Committee.

j. Be responsible for the proper administration of the College's interests in any *inter vivos* or testamentary estate in consultation with the College's General Counsel.

**§4.10 Registrar.** The Registrar shall be the official recorder of the academic records of all students of the College and of all degrees awarded by the College and shall have the authority to furnish copies of such records.

## ARTICLE 5 - STANDING COMMITTEES

**§5.1 General.** The Board's Standing Committees ("Standing Committees") shall include the Executive Committee, the Executive Compensation Committee, the Committee on Academic Affairs, the Committee on Administration and Finance, the Audit and Risk Committee, the Committee on College Relations, the Committee on Facilities and Environment, the Committee on Investment, the Committee on Trusteeship, the Committee on Student Affairs, the Communications and Marketing Committee, and the Committee on Admissions.

a. Excepting the Executive Committee, every Standing Committee shall consist of at least five (5) Active Trustees, the Chair and the President as *ex-officio* members, and such other member or members, whether *ex-officio* or not, as shall be prescribed by these By-Laws or may be appointed at any time by the Chair; all such members, whether appointed or serving *ex officio*, who are Active Trustees shall be entitled to vote.

b. The Board at any time may authorize the Chair to appoint any other committee or committees of the Board. Every member of any Board committee shall serve at the discretion of the Board; excepting, however, that any member *ex-officio* shall cease to serve only upon ceasing to hold office.

c. The Chair shall be the chair of the Executive Committee and shall appoint the chair (including co-chairs) of every other committee of the Board. The Vice Chair shall be the vice-

chair of the Executive Committee; and the vice-chair of each other committee shall be appointed by the chair thereof.

d. A quorum of each committee shall be a majority of its members (exclusive of the Chair and the President if they are serving as *ex-officio* members) who are Active Trustees.

e. Each Standing Committee, with the exception of the (i) Executive Committee, and (ii) Investment Committee whose chair may schedule the Committee's meetings at any time, shall meet at least three times annually, at least two of which shall be held in conjunction with regular meetings of the Board; any other Standing Committee meetings may be held either in person or by telephone or video conference. The chair of each Standing Committee shall set the date, time and place of Committee meetings.

f. Every Standing Committee may invite to its meetings any person or persons with whom it may wish to confer. Every Standing Committee shall submit a report on its activities at every regular meeting of the Board, which may consist of a written report made available to all Active Trustees.

g. The powers and duties of the Board as to any matter within the oversight of any of its Standing Committees or any committee established under §5.1.b. may be exercised and discharged in the name and on behalf of the Board by the Committee having such oversight; provided that, before any Committee shall so act on any matter within its oversight, it shall (i) give consideration to such recommendations, if any, on the matter as shall have been made by any other Committee, and (ii) give notice to the Board Chair. However, the powers and duties of Standing Committees do not include:

(i) The election or removal of any Trustee, the President or any Board Officer or the filling of any vacancy on the Board;

(ii) Any amendment of these By-Laws, their repeal, or the adoption of any new By-Laws;

(iii) The amendment or repeal of any vote or resolution of the Board;

(iv) The making of any major change in existing policy of the College;

(v) The authorization of any increase in total expenditures in any Annual Budget approved by the Board, unless funds included in such Budget are adequate to cover such increase and shall be available as determined by the Executive Committee or the Administration and Finance Committee;

(vi) The authorization of any action pursuant to §§2.1.h, 2.1.i, or 2.1.j. (“covered transaction”) if such action concerns a transaction in excess of \$1 million which has not otherwise been approved by the Board, provided, however, that the Executive Committee shall be authorized to approve covered transactions in an amount of up to \$2 million; and

(vii) The granting of any degree of the College.

**§5.2 Executive Committee: Composition; Meetings.** The members of the Executive Committee shall include the members of the Office of the Chair, the President, and the chair of each Standing Committee. The Executive Committee shall meet upon the call of the Chair or upon written notice given by any three (3) members of the Executive Committee to the Chair, who shall convey such notice to all members of the Executive Committee. In the absence of the Chair and Vice Chair, the President shall preside at any meeting of the Committee; and at any meeting of the Committee the place of the chair of any other Standing Committee absent from the meeting may be taken by the vice-chair of such Standing Committee.

**§5.3 Executive Committee: Powers and Duties.** Except as otherwise provided in §5.1. of these By-Laws, the Executive Committee shall, when the Board shall not be in session, exercise



and discharge the powers and duties of the Board in all matters as to which, in the judgment of the Committee, the welfare of the College shall require action before the next meeting of the Board. The Committee shall be responsible for the continuing planning, review, and evaluation of all objectives, programs, requirements, and resources of the College and shall periodically report to the Board its conclusions and recommendations regarding such matters.

**§5.4 Executive Compensation Committee.** The Executive Compensation Committee shall consist of the members of the Office of the Chair. The Chair of the Board shall serve as the chair of the Committee. The Committee shall be responsible for approving the College’s executive compensation for those employees who shall include the President and “key employees.” The term “key employees” shall be defined by the Internal Revenue Service under applicable regulations as may be amended from time to time. A key employee, as currently defined by the Internal Revenue Service, must satisfy the following three tests: (i) have reportable compensation of \$150,000 or greater from the College on a calendar year basis; (ii) have “significant responsibility,” as defined by the Internal Revenue Service; and (iii) be one of the top 20 employees who satisfy the first two tests.

a. President. With respect to the President, the Executive Compensation Committee shall:

(i) Review the President’s goals for the upcoming year and accomplishments for the year just ended.

(ii) Obtain appropriate analysis and studies from the College to use as an aid in evaluating the compensation of the President.

(iii) Report to the Executive Committee of the Board annually its conclusions.

(iv) Document the deliberation and decision on the compensation for the President.

b. Key Employees. With respect to the key employees, the Executive Compensation Committee shall:

(i) Obtain appropriate analysis and studies from the President to use as an aid in evaluating the compensation recommendation of the President for the key employees.

(ii) Document the deliberation and approval of the compensation recommendations.

**§5.5 Academic Affairs.** The Committee on Academic Affairs shall, in consultation with the President and Vice President for Academic Affairs, oversee all matters relating to: (a) the academic objectives, curricula, programs, and requirements of the College; (b) the employment, promotion, and tenure of the Faculty; (c) all academic activities of the College; and (d) athletics.

**§5.6 Administration and Finance.** The Committee on Administration and Finance, in consultation with the Vice President for Administration and Finance, shall oversee and review the business and financial aspects of all transactions except those specifically designated by the Board or these By-Laws to the Investment Committee or to the Audit and Risk Committee. Such oversight shall include: (a) the exercise and the discharge by the Vice President for Administration and Finance of the powers and duties assigned by §4.9 of these By-Laws; (b) the form, preparation and submission to the Board of the Annual Budget; (c) review of the reporting structure and financial controls, including periodic overview of the College's financial status; and (d) review of current issues and policies concerning finance, personnel, purchasing, and administrative services including collaboration with other committees on matters of joint interest. Whenever the Board shall have approved the purchase of any property or the construction, reconstruction, or renovation

of any building on realty owned by the College, the Committee on Administration and Finance shall recommend to the Board the terms and conditions under which money is to be borrowed or provided for such purpose.

**§5.7 Audit and Risk.**

a. The Audit and Risk Committee shall be responsible for oversight of the integrity of the College's financial statements, tax returns, financial reporting processes, internal accounting, and financial controls as well as the qualifications, independence, and performance of the independent auditor. The Audit and Risk Committee shall meet with the independent auditor at least annually. The Audit and Risk Committee shall also exercise oversight over the College's enterprise risk management and internal control functions. All Audit and Risk Committee members shall have sufficient financial experience and ability to enable them to discharge their responsibilities; the General Counsel shall serve as an *ex-officio* member of the Audit and Risk Committee. The Audit and Risk Committee shall meet at least two (2) times annually, including telephonically.

b. **Legal Affairs.** The Legal Affairs Subcommittee shall be a subcommittee of the Audit and Risk Committee and shall be chaired by the General Counsel. The Subcommittee shall (i) consult with the President and Administrative Officers of the College as needed to provide oversight of any significant legal matters involving the Board and/or the College, (ii) oversee the development of policies and procedures intended to protect the College from legal, compliance, and regulatory risks and to enhance the College's legal and compliance practices, and (iii) assist the Board in fulfilling its oversight responsibilities with respect to the College's compliance with legal, grant, research and regulatory obligations. The Subcommittee, in consultation with the

Board, may act on behalf of the Board in any proceeding where the Board is a party or elects to intervene, or the Board's interests are otherwise implicated. The Subcommittee shall provide input to the Audit and Risk and other Board Committees, and litigation reports to the Board, as appropriate.

**§5.8 College Relations.** The Committee on College Relations, in consultation with the Vice President for College Relations, shall oversee all matters relating to: (a) the alumni of the College and liaison with the Alumni Council; and (b) developing external and financial support for the College and its mission.

**§5.9 Facilities and Environment.** The Committee on Facilities and Environment, in consultation with the Vice President for Administration and Finance, shall oversee: (a) the operation, maintenance, and repair of all buildings and the mechanical plant and equipment of the College; (b) the planning, construction, reconstruction, and renovation of all such buildings, plant and equipment; and (c) the planning, lay-out, and maintenance of all grounds of the College.

**§5.10 Investment Committee: Composition; Meetings.** The members of the Investment Committee shall include the President *ex-officio*, and others consistent with §5.1. of these By-Laws. The Committee shall hold regular meetings at least four (4) times a year and a special meeting may be called at any time by the President.

**§5.11 Investment Committee: Powers and Duties.**

a. Subject to the direction and supervision of the Board, the Investment Committee shall oversee the investment of the College's funds and any real or investment property that the College receives as a gift. It shall recommend investment policy, subject to approval of the Board, and shall operate under such policy in overseeing the investment of all funds, including the power to effect purchases, sales or exchanges of securities and other investment assets of the College.

The Investment Committee may designate and authorize one or more investment managers or firms to invest and reinvest such funds of the College.

b. The Investment Committee shall periodically report to the Board, no less often than annually, regarding: (i) the investment objectives and strategies for the management of the College funds; (ii) the selection of any investment managers or firms for funds of the College and the term and conditions of employment of each such manager or firm; and (iii) all other matters relating to investment of the College's funds.

c. For the purpose of meeting expenses of the College or reinvesting funds of the College, the Investment Committee may: (i) authorize the sale, transfer, and delivery of any bonds, stocks, other securities, or interest therein belonging to the College; and (ii) empower the Vice President for Administration and Finance, in the name and on behalf of the College and under its corporate seal or otherwise, to execute any assignment, transfer, or instrument of sale which the Vice President for Administration and Finance shall deem proper, and to do all other things necessary to effect such sale, transfer, and delivery.

d. The Investment Committee shall also be responsible for oversight of activities of the Vice President for Administration and Finance and investment managers, if any, employed by the Board involving the funds of the College.

e. Between meetings of the Committee, the Chair of the Committee may, with the concurrence of the President and the members of the Investment Committee, consummate such investment transactions as deemed prudent. The Chair of the Investment Committee shall inform the Committee of any such action at the next meeting of the Investment Committee, and such transactions shall be so reflected in the minutes of such meeting.

**§5.12 Trusteeship.** The Trusteeship Committee shall consist of the Chair, the President (non-voting), and four (4) other Active Trustees, each of whom shall have been nominated by the Chair and elected by the Board; the General Counsel shall serve as an *ex-officio* member of the Trusteeship Committee. The Trusteeship Committee shall:

a. Submit to the Board for its consideration nominations for all elected Board Officers to be filled at the Board's Annual Meeting and, in accordance with §4.1.a, the nomination for the Chair to be elected every fourth year.

b. Submit to the Board for its consideration nominations for the President's Council, Life, and Term Trustees and for the filling of vacancies for the President's Council, Life, and Term Trustees and, if requested by the Board, the President of the College.

c. Provide an orientation for new Active Trustees that includes goals and expectations for each new Active Trustee.

d. Review the performance of the Board as an entity, and all Trustees, including the Board Chair; and, at intervals to be determined by the Committee, consult with each Trustee and the Chair on how their engagement in the work of the Board has progressed.

e. Recommend Term Trustees for reappointment to a second or third term based upon standards established by the Committee.

f. Discuss and review the roles and responsibilities of Trustees.

g. Prepare and monitor policies to assist Trustees in avoiding any conflict or appearance of conflict between the College's interests and any personal interest of a Trustee (in accordance with §6.2).

h. Review periodically these By-Laws and propose amendments to the Board as appropriate.

i. Solicit and review each year written recommendations of nominees for honorary degrees. Such solicitation shall be directed to all sources considered appropriate by the Committee and the President.

j. Review and approve nominations for the Founders Medal, established in 1968 by the Board of Trustees, and other prizes and honors as determined by the President and Chair.

**§5.13 Student Affairs.** The Committee on Student Affairs, in consultation with the Vice President for Student Affairs, shall oversee matters relating to the College's non-academic services to students. Such services shall include, but not be limited to, Campus Safety, career services, fraternities and sororities, housing, student activities, student community service, student discipline, student health and counseling services, intramural athletics, the Campus Center, Chaplains' services, dining services, and student run media.

**§5.14 Admissions.** The Admissions Committee, in consultation with the Vice President of Admissions, Financial Aid and Enrollment, shall oversee matters of policy with respect to admissions and financial aid. The Committee shall review strategies and provide counsel on programs affecting the recruitment and admission of all students.

**§5.15 Communications and Marketing.** The Communications and Marketing Committee, in consultation with the Vice President for Communications and Marketing, shall oversee: (a) communications, marketing and messaging concerning the College and all College publications, including preparation of the Union College catalogue; and (b) the development of plans and strategies on and off campus that will enhance knowledge and appreciation of the College's programs, mission, and services.

**§5.16 Discontinued Committees.** The Board may discontinue any Standing Committee, from time to time, in its discretion.

## **ARTICLE 6 - MISCELLANEOUS**

**§6.1 Duties of Trustees and Officers.** Every Trustee, Board Officer, and Administrative Officer of the College shall exercise and discharge the powers and duties of trusteeship or office in good faith and with that degree of diligence, care, and skill which a prudent person in any like position would ordinarily apply in similar circumstances. In so acting in good faith, every Trustee may rely on any and all financial statements of the College represented to such Trustee to be correct by the Chair, the President, the Vice President for Administration and Finance, or represented in any written report by any independent public or certified public accountant or firm of such accountants to reflect fairly the subject matter of such statement.

### **§6.2 Conflict of Interest.**

a. Definition of Conflicts of Interest. A conflict of interest arises when the interests of a Trustee or Administrative Officer and the interests of the College diverge or appear to diverge. Conflicts may also arise when a Trustee or Administrative Officer has non-College interests or duties that could influence the Trustee's or Administrative Officer's actions on behalf of the College. Actual impropriety is not necessary for a conflict of interest to arise. The appearance of, or potential for, a conflict can be as damaging to the College as an actual conflict. A conflict of interest shall be deemed to exist whenever an individual is in the position to approve or influence College policies or actions which involve or could ultimately harm or benefit financially: (i) the individual; (ii) any family member [i.e., a spouse, domestic partner, grandparents, parents, children, grandchildren, great grandchildren, brothers or sisters (whether whole or half blood), and spouses of these individuals]; or (iii) any organization (whether for-profit



or not-for-profit) in which such individual or a family member is a board member, trustee, officer, member, employee, partner or has more than 10% of the total (combined) voting power (each of (i), (ii) or (iii) may be referred to as an “Interested Party”).

b. Timing of Disclosure of Conflicts of Interest. A Trustee or Administrative Officer shall disclose a conflict of interest involving an Interested Party: (i) prior to voting on or otherwise discharging such Trustee or Administrative Officer’s duties with respect to any matter involving the conflict which comes before the Board or any committee; (ii) prior to entering into any contract or transaction involving the conflict; (iii) as soon as possible after the Trustee or Administrative Officer learns of the conflict; and (iv) on the annual conflict of interest disclosure form.

c. Conflict of Interest Disclosure Form. The Assistant Secretary of the Board shall distribute annually to all Trustees, Administrative Officers, and key employees (as defined in §5.4) a form soliciting the disclosure of all conflicts of interest involving an Interested Party, including specific information concerning associations with other institutions, the terms of any contract or transaction with the College, and whether the process for approval set forth in this policy was used. Such disclosure form may require disclosure of other relationships that may not constitute an actual conflict of interest, but which are required to be disclosed in order for the College to comply with its annual reporting requirements. The Assistant Secretary shall promptly inform the Trusteeship Committee upon receiving information concerning any conflicts of interest. The Trusteeship Committee shall determine whether a conflict management plan should be developed to address any actual or potential conflict identified on such forms or otherwise made known to the Assistant Secretary. The terms of any such plan shall be developed and approved by the Trusteeship Committee and maintained by the Assistant Secretary; the Trusteeship Committee shall consult with the Audit and Risk Committee and/or the Legal Affairs Subcommittee as appropriate. The

information disclosed on the Conflict of Interest Disclosure Form shall otherwise be held in confidence except to the extent that disclosure is necessary to protect the interests of the College.

d. Form of Disclosure of Potential Conflicts; Approval of Contracts and Transactions Involving Potential Conflicts of Interest.

(i) A Trustee or Administrative Officer who has or learns about a potential conflict of interest affecting an Interested Party shall disclose promptly to the Assistant Secretary of the College the material facts surrounding any potential conflict of interest, including specific information concerning the nature of such potential conflict including the terms of any proposed or actual contract or transaction with the College. All effort shall be made to disclose any conflict or potential conflict involving a contract or transaction and have any needed conflict management plan approved by the Trusteeship Committee before the contract or transaction is entered into. A conflict of interest must always be disclosed by an affected Trustee or Administrative Officer and may be disclosed by any other person who has knowledge of such a conflict.

(ii) Following receipt of information concerning a contract or transaction involving a potential conflict of interest, the Trusteeship Committee shall consider the material facts concerning the proposed contract or transaction, including the process by which the decision was made to recommend entering into the arrangement on the terms proposed. The Trusteeship Committee shall approve only those contracts or transactions in which the terms are fair and reasonable to the College and the arrangements are consistent with the best interests of the College. Fairness includes, but is not limited to, the concepts that the College should pay no more than fair market value for any goods or services which the College receives and that the College should receive fair market value consideration for any goods or services that it furnishes others. The Trusteeship Committee shall set forth the basis for its decision with respect to approval of contracts

or transactions involving conflicts of interest in the minutes of the meeting at which the decision is made, including the basis for determining that the consideration to be paid is fair to the College.

(iii) At the time of the discussion and decision concerning the authorization of such contract or transaction, the Trustee or Administrative Officer with a conflict of interest shall comply with any conflict management plan developed in accordance §6.2.c. of these By-Laws.

e. Validity of Actions. No contract or other transaction between the College and an Interested Party shall be void or voidable due to the fact that: (i) the contract or transaction was with an Interested Party; (ii) an Interested Party was present at the meeting where the contract or transaction was authorized; or (iii) an Interested Party voted to approve the contract or transaction; provided that the material facts of the Interested Party's interest in the contract or transaction were disclosed in good faith or known to the Board or Committee voting on the matter. While an Interested Party may be counted in determining the presence of a quorum at the meeting at which the contract or transaction is approved, any vote of the Interested Party must be disregarded.

### **§6.3 Indemnification.**

a. Right to Indemnification. Each person who was or is made, or threatened to be made, a party to an action or proceeding (including an action by or on behalf of any entity of any type or kind, domestic or foreign, including the College, or any partnership, joint venture, trust, employee benefit plan, or other enterprise), whether civil, criminal, investigative or administrative, by reason of the fact that such person, or such person's testator or intestate, is or was a Trustee or Administrative Officer of the College, or is or was serving any other College partnership, joint venture, trust, employee benefit plan, or other enterprise in any capacity upon the written authorization of the President or Chair or with the approval of the Board of Trustees, shall be indemnified and held harmless by the College to the fullest extent permitted by the New York Not-

For-Profit College Law, as the same now exists or may hereafter be amended (but, in the case of any such amendment and with respect to any claim that arose before the effective date of such amendment, only to the extent that such amendment permits the College to provide broader indemnification rights than said law permitted the College to provide as to that claim prior to such amendment), against any and all liability, loss, and reasonable expense (including attorneys' fees and costs actually and necessarily incurred as a result of such action or proceeding or any appeal thereof), judgments, fines (including excise taxes assessed with respect to an employee benefit plan pursuant to applicable law), and amounts paid or to be paid in settlement incurred or suffered by such person in connection therewith. Such indemnification shall continue for a person who has ceased to serve in any capacity described above, or whose testator or intestate ceased so to serve prior to such person's death. The right to indemnification conferred in this subsection (a) shall be a contract right and shall include the right to be paid by the College the expenses incurred in defending a civil or criminal action or investigative or administrative proceeding in advance of the final disposition thereof; provided, however, that the payment of such expenses shall be made only upon receipt by the College of an undertaking by or on behalf of such person to repay: (i) the sum advanced, in case the person receiving that sum is ultimately found not to be entitled to indemnification under this subsection (a); or (ii) that part of the sum advanced which exceeds the indemnification to which such person is ultimately determined to be entitled under this subsection (a). The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person (i) did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interest of the College, and, (ii) with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

b. Right of Claimant to Bring Suit. If a claim for indemnification under subsection (a) of this §6.3 is not paid in full by the College within forty-five (45) days after a written demand therefore has been received by the College, the claimant may at any time thereafter bring suit against the College to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the reasonable expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition thereof where the required undertaking set forth in subsection (a) has been tendered to the College) that the claimant has not met the standards of conduct which make it permissible under subsection (a) of this §6.3 for the College to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the College. Neither the failure of the College (including its Board of Trustees or independent legal counsel) prior to the commencement of such action to have made a determination that indemnification of the claimant is proper in the circumstances because such claimant, or such claimant's testator or intestate, has met the applicable standard of conduct set forth in subsection (a) of this §6.3, nor an actual determination by the College (including by its Board of Trustees or independent legal counsel) that the claimant, or such claimant's testator or intestate, has not met such applicable standard of conduct, shall create a presumption that such claimant, or such claimant's testator or intestate, has not met such applicable standard of conduct.

c. Non-Exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition provided in this §6.3 shall not be exclusive of any other rights that any person may have or hereafter acquire under any statute, provision of the Charter, By-Laws, agreement, resolution of disinterested members of the Board of Trustees, or otherwise.

d. Other Employees and Agents of the College. The College may, by action of its Board of Trustees, provide indemnification to an employee or agent of the College of such scope, to such effect, and granting such rights, if any, as the Board of Trustees, in its sole discretion, shall determine, including, without being limited to, indemnification of the same scope, to the same effect, and granting the same rights as the indemnification of Trustees and Administrative Officers provided by this §6.3.

e. Insurance. To the extent permitted by the New York Not-For-Profit College Law, the College may purchase and maintain insurance, at its expense, to indemnify (i) the College against any obligation which it incurs as a result of this §6.3, (ii) its Trustees, Administrative Officers, employees, and agents in instances in which they must or may be indemnified by the College pursuant to this §6.3, and (iii) its Trustees, Administrative Officers, employees, and agents in instances in which, for any reason, they are not, or may not be, indemnified by the College.

f. Notification. As a condition precedent to an individual's right to be indemnified and defended by the College, such individual must notify the College in writing as soon as practicable of any action, suit, proceeding or investigation involving such individual for which indemnity will or could be sought. With respect to any action, suit, proceeding or investigation of which the College is so notified, the College will be entitled to participate therein at its own expense and/or to assume the defense thereof at its own expense, with legal counsel selected by the College and acceptable to the individual, such acceptance not to be unreasonably withheld, delayed or conditioned. After notice from the College to the individual of its election to assume such defense, the College shall not be liable to the individual for any legal or other expenses subsequently incurred by the individual in connection with such action, suit, proceeding or investigation, other than as provided below. Except as otherwise expressly

provided by this §6.3, the individual shall have the right to employ such individual's own counsel in connection with such action, suit, proceeding or investigation, but the fees and expenses of such counsel incurred after notice from the College of its assumption of the defense thereof shall be at the expense of the individual unless (i) the employment of counsel by the individual has been authorized by the College, (ii) the College shall have reasonably concluded that there may be a conflict of interest or position on any significant issue between the College and the individual in the conduct of the defense of such action, suit, proceeding or investigation, or (iii) the College shall not in fact have employed counsel to assume the defense of such action, suit, proceeding or investigation, in each of which cases the fees and expenses of counsel for the individual shall be at the expense of the College. The College shall not be required to indemnify the individual under this §6.3 for any amounts paid in settlement of any action, suit, proceeding or investigation effected without the College's written consent. The College shall not settle any action, suit, proceeding or investigation in any manner which would impose any non-indemnified monetary penalty, a non-monetary penalty, or any limitation on the individual without the individual's written consent. Neither the College nor the individual will unreasonably withhold or delay its consent to any proposed settlement proffered by the other. Any notices to the College required by this §6.3.f. shall be given in writing to the Assistant Secretary and the General Counsel.

**§6.4 Fiscal Year.** The fiscal year of the College shall be the twelve (12) months from July 1 of each calendar year to and including June 30 of the calendar year next following.

**§6.5 Adoption of Annual Budget.** At a Board meeting each year, the Board shall act on the Annual Budget proposed by the President and the Vice President for Administration and Finance for the fiscal year next following. By such action, the Board may: (a) add to, reduce, or

strike out any allotment in such proposal; (b) provide for any purpose not included in the proposal; and (c) impose any condition or conditions as to administration of such Budget. When completed, such action shall constitute adoption by the Board of the Annual Budget and authorization by the Board of the expenditures provided for in the Budget as so adopted. Without the express prior written approval of the Board, the Executive Committee, or its Administration and Finance Committee, no officer, employee, or agent of the College shall at any time make or authorize for any purpose: (a) any expenditure in excess of the then unexpended balance of expenditures for such purpose which shall have been authorized by the Budget; and (b) any commitment by the College beyond the term of the budget, or either such approved expenditure or such approved commitment.

**§6.6 Execution of Instruments.** Every duly-authorized deed and mortgage given by the College and lease of realty owned by the College, and any satisfaction, assignment, or release of any such mortgage, shall be signed by the Chair, the Vice Chair, the President or the Vice President for Administration and Finance; the signature of any of the said officers may be attested by any officer of the College authorized by §4.6 of these By-Laws to impress the seal of the College, or by such other person as the Board or the Executive Committee may designate, at any time.

**§6.7 Notice.** Whenever these By-Laws provide that “notice” or “written notice” shall be provided, it shall be sufficient that actual notice has been given, including in person or by mail, email, fax, overnight or messenger delivery.

## **ARTICLE 7 - AMENDMENT**

**§7.1** If notice of the subject matter of any proposed amendment, addition to, or repeal of these By-Laws shall have been given no fewer than thirty (30) days before the meeting,



notwithstanding the provisions of §3.3 of these By-Laws, they may be amended, added to, or repealed at any such meeting by a majority vote of the Active Trustees authorized pursuant to §2.2.