

BY-LAWS
of
BROOKLYN COLLEGE
AUXILIARY ENTERPRISES CORPORATION

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ARTICLE I - ORGANIZATION

Section 1 – Name. This corporation shall be known as the BROOKLYN COLLEGE AUXILIARY ENTERPRISES CORPORATION (the “Corporation”).

Section 2 – Purpose. The Corporation is organized under the New York Not-for-Profit Corporation Law and is operated exclusively for the charitable purpose of supporting Brooklyn College of The City University of New York (the “College”), as is more fully set forth in the Corporation’s Certificate of Incorporation.

Section 3 – Members. The Corporation shall have no members.

ARTICLE II – BOARD OF DIRECTORS

Section 1 - Powers and Composition. The property, affairs, business and concerns of the Corporation shall be vested in a Board of Directors consisting of thirteen Directors. The composition of the Board of Directors shall be as follows:

- The College President or his/her designee;
- The Senior Vice-President for Finance and Administration of the College;
- The Associate Vice President for Budget and Planning and Chief Financial Officer of the College
- The Assistant Vice President for Facilities Planning and Operations of the College
- Two members of the College faculty appointed by the College President from a panel of four full-time faculty members elected by the College’s Faculty Council;
- Five students, three of whom shall be the student government presidents, and two of whom shall be elected by the student governments from among the elected members of the student governments, with the student seats allocated on a basis that will provide representation, as nearly as practicable, in proportion to the student enrollment by headcount from the respective constituencies; and

- Two Independent Directors¹ appointed by the College President.

In the event that any of the foregoing administrative positions does not exist at the College at any time, the College President shall designate an administrator to fill such vacancy on the Board for all purposes of these By-laws.

Each Director shall have the right to vote.

Section 2 - Term of Office. Each administration Director shall serve during his or her tenure in office by virtue of which he or she was appointed to the Board. Each faculty and Independent Director shall serve for a two-year term and until his or her successor is elected, appointed and qualified. Each student Director shall serve for a one-year term and until his or her successor is elected or appointed and qualified. Directors' terms shall commence on July 1. Directors may be elected or appointed to consecutive terms.

Section 3 – Qualification. Each Director shall be eighteen years of age or older. Each administration and faculty Director shall be a full-time employee of the College.

Section 4 – Removal. Any Director who ceases to occupy the position that qualified him or her to be elected or appointed as a Director will cease to be a Director. The College President may at any time remove a Director whom he or she has appointed. A Director may also be removed by the Board for cause, such as excessive absences or violation of these By-laws, upon the affirmative vote of eight members of the Board (i.e., a supermajority of the Board not counting the Director whose removal is being considered, although that individual has the right to vote on the matter) at any regular meeting or special meeting of the Board called for that purpose, provided that due notice of the proposed action is given to the full membership of the Board.

Section 5 – Vacancies. Vacancies on the Board shall be filled as follows:

- Administration and Independent Director vacancies shall be filled by the College President.

¹ An independent director is defined as a former employee of the College or the Corporation, a College alum, a community member, or any other individual, who, pursuant to Section 102 of the Not-for-Profit Corporations Law: (A) has not been within three years of his or her appointment to the governing board of the Corporation, an employee of the Corporation, CUNY or the Research Foundation of CUNY; and (B) does not have a relative who is, or has been within three years of the individual's appointment to the governing board, a key employee of the Corporation, CUNY or the Research Foundation of CUNY; and (C) has not received, and does not have a relative who has received, in any of the three fiscal years prior to the individual's appointment to the governing board, more than \$10,000 in direct compensation from the Corporation, CUNY or the Research Foundation of CUNY (other than reimbursement for expenses reasonably incurred as a director or reasonable compensation for service as a director as permitted by the Not-for-Profit Corporations Law); and (D) is not a current employee of or does not have a substantial financial interest in, and does not have relative who is a current officer of or has a substantial financial interest in, any entity that has made payments to, or received payments from, the Corporation, CUNY or the Research Foundation of CUNY for property or services in an amount which, in any of the three fiscal years prior to the individual's appointment to the governing board, exceeds the lesser of \$25,000 or 2% of such entity's consolidated gross revenues. For purposes of this definition, "payment" does not include charitable contributions.

- Faculty Director vacancies shall be filled by the College President from a list of nominees submitted by the College's Faculty Council that is twice the size of the number of vacancies to be filled.
- Student Director vacancies shall be filled by the president of student government from the members of student government elected by the student body.

However, if a vacancy remains unfilled for three months after it occurs, and by reason of the absence, illness, or other inability of one or more of the remaining Directors a quorum of the Board cannot be obtained, a majority of the remaining Directors may appoint a Director from the relevant constituent group to fill the vacancy. A Director elected or appointed to fill a vacancy will hold office until his or her successor is elected or appointed and qualified.

Section 6 – Compensation. No Director shall receive any compensation from the Corporation for services performed in his or her official capacity, but Directors may be reimbursed for reasonable expenses incurred in the performance of official duties. This Section does not preclude any Director from serving the Corporation in any other capacity or from receiving compensation for services in such other capacity, including reimbursement for his or her related expenses.

ARTICLE III – MEETINGS OF THE BOARD OF DIRECTORS

Section 1 - Time and Place. Meetings of the Board of Directors may be held at such times and places as the Board of Directors determine.

Section 2 - Annual Meeting. The first regular meeting of the College's fall semester each year will be the Annual Meeting of the Board of Directors, for the presentation by the Chair and the Treasurer of the annual financial report of the Corporation for the prior year and of current year financial priorities and objectives, for the election or appointment of officers, and for the transaction of such other business as may properly come before the meeting.

Section 3 - Regular Meetings. The Board of Directors shall hold a minimum of one regular meeting each semester.

Section 4 - Special Meetings. Special meetings of the Board of Directors may be held at any time upon the call of the Chair of the Corporation, or upon the written request of not less than three Directors directed to the Chair or the Secretary.

Section 5 - Notice. Notice of every meeting of the Board of Directors shall be given personally, by electronic transmission or by first class mail to each Director at least seven days before the day on which the meeting is to be held. Each such notice shall state the time and the place where the meeting is to be held. Notices are deemed to be given when mailed and shall be sent to each Director at his or her address as it appears in the records of the Corporation.

Section 6 - Waiver. No notice of the time, place or purpose of any meeting of the Board of Directors need be given to any Director who submits to the Chair or Secretary of the Corporation a signed waiver of notice, either before or after the meeting, or who attends the meeting without protesting, prior to or at its commencement, the lack of notice to the Director. Such waiver of notice may be written or electronic.

Section 7 - Quorum and Vote. At each meeting of the Board of Directors, the presence of seven Directors, including at least one student Director, shall constitute a quorum for the transaction of any business. Unless otherwise specified in these By-laws or by law, a majority vote of the Directors present at the time of the vote, if a quorum is present, will be the act of the Board of Directors. Each Director shall be entitled to one vote. Directors shall vote in person and not by proxy.

Section 8. Audio and Video Conference Calls. Any Director or committee member who is not physically present at a meeting of the Board or a committee may participate by means of a conference telephone or similar communications equipment or by electronic video screen communication. Participation by such means shall constitute presence in person as long as all persons participating in the meeting can hear each other at the same time and each Director can participate in all matters before the Board.

Section 9 – Adjournment. Any meeting of the Board may be adjourned by a majority vote of the Directors present at the meeting. If a quorum is not present, a majority of the Directors present may adjourn the meeting to another place and time. Notice of any adjourned meeting need not be given if the new place and time are announced at the meeting.

Section 10 - Conflict of Interest. As further set forth in the Corporation’s conflict of interest policy, each Director shall disclose to the Board the material facts as to his or her interest in any contract or transaction, including any directorships or offices held or financial interest, prior to any action by the Board regarding that contract or transaction. A Director that is interested in a contract or transaction may be counted in determining the presence of a quorum at a meeting of the Board to authorize the contract or transaction if this disclosure is made, *provided, however*, that the Director’s vote may not be counted when determining whether a sufficient number of Directors has approved the contract or transaction.

Section 11 - Order Within Meetings. Meetings of the Board of Directors of the Corporation shall be governed by *Robert’s Rules of Order*, most current edition.

ARTICLE IV - OFFICERS

Section 1 - Number. The officers of the Corporation shall be a Chair, a Vice Chair, a Treasurer, and a Secretary, and such other officers as the Board of Directors may from time-to-time determine.

Section 2. Election and Tenure. The officers of the Corporation, except for officers serving *ex officio*, shall be elected annually at the first regular Board meeting of the fall semester of the College (the Annual Meeting). Each such officer shall hold office until the first regular Board meeting of the next fall semester and until a successor is duly elected and qualifies.

Section 3 – Chair. The College President, or his/her designee (who must be a Director of the Corporation), shall be the Chair of the Corporation. The Chair shall be the chief executive officer of the Corporation and shall preside at all meetings of the Board of Directors. The Chair shall be responsible for the general supervision and control of the affairs of the Corporation and shall ensure that all policies, orders and resolutions of the Board of Directors are implemented. The Chair shall perform such other duties as requested by the Board of Directors or as are reasonably incidental to the office of chief executive officer and chair.

Section 4 - Vice Chair. The Assistant Vice President for Facilities Planning and Operations of the College shall be the Vice Chair of the Corporation. The Vice Chair shall perform the duties of the office of the Chair in case of a vacancy in the position of Chair, or in the Chair's absence or inability to act. The Vice Chair shall perform such other duties as assigned by the Board of Directors or the Chair.

Section 5 – Treasurer. The Associate Vice President for Budget and Planning and Chief Financial Officer of the College shall be the Treasurer of the Corporation. The Treasurer shall be the chief financial officer of the Corporation and shall have charge and custody of, and be responsible for, all the funds of the Corporation and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name of and to the credit of the Corporation in such banks or other depositories as are designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as ordered by the Board of Directors, taking proper vouchers for the disbursements, and shall render to the Chair and Directors at the regular meetings of the Board of Directors whenever they may require it, a statement of all transactions as chief financial officer and an account of the financial condition of the Corporation. The Treasurer shall perform all other duties incident to the office of Treasurer and such other duties as assigned by the Board of Directors or the Chair.

Section 6 – Secretary. The Chair of the Corporation, or his/her designee, shall appoint the Secretary of the Corporation. The Secretary need not be a Director. The Secretary shall issue notices of all meetings of the Board of Directors where notices are required by law or these By-laws. The Secretary shall attend and keep the minutes of the meetings of the Board of Directors, shall keep the seal of the Corporation and shall, when necessary, attest to the official acts of the Chair and the Board of Directors. The Secretary shall perform all other duties incident to the office of Secretary and such other duties as assigned by the Board of Directors or the Chair.

Section 7 - Compensation. No officer shall receive any compensation from the Corporation for services performed in his or her official capacity, but officers may be reimbursed for reasonable expenses incurred in the performance of official duties, subject to the approval of the Board of Directors.

ARTICLE V- COMMITTEES

Section 1 – Committees of the Board. The Board of Directors may, by resolution or resolutions adopted by a majority of the entire Board, establish such committees (including their term, duties and powers) as it shall deem necessary and advisable, each consisting of three or more Directors and each of which, to the extent provided in the resolution, shall have the authority of the Board, except that no committee shall have authority as to following matters: (a) any action related to the Certificate of Incorporation, (b) any amendments to, or repeal of, these By-laws, (c) the filling of vacancies in the Board or in any committee, (d) the fixing of compensation of Directors for serving on the Board or on any committee, (e) the amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable or (f) any action otherwise prohibited by law. The committees of the Board shall include the following:

(a) **Executive Committee.** The Board of Directors shall have an Executive Committee consisting of the officers of the Corporation. The Chair of the Corporation shall serve as Chair of the Executive Committee. The committee, when College classes are not in session and in emergency situations, shall have and may exercise all powers of the Board of Directors except as otherwise provided in this Section 1. The Executive Committee shall keep minutes of its proceedings and shall report on these proceedings to the Board at or before the next scheduled Board meeting.

(b) **Audit Committee.** The Board shall have an Audit Committee, which shall consist of the two Independent Directors and one student Director elected by the Board, who also meets the definition of Independent Director. The Audit Committee shall oversee the accounting and financial reporting processes of the Corporation and the audit of the Corporation's financial statements. The Audit Committee's responsibilities shall include the following:

- annually select or renew the selection of an independent auditor to conduct an audit, subject to the approval of The City University of New York;
- review with the independent auditor the scope and planning of the audit prior to the audit's commencement;
- upon completion of the audit, review and discuss with the independent auditor:
(A) any material risks and weaknesses in the internal controls identified by the auditors; (B) any restrictions on the scope of the auditor's activities or access to requested information; (C) any significant disagreements between the auditor and management; and (D) the adequacy of the Corporation's accounting and financial reporting processes;
- annually consider the performance and independence of the independent auditor;

- oversee the adoption, implementation of, and compliance with the Corporation's conflict of interest policy; and
- report on the committee's activities to the Board.

Section 2. Committees of the Corporation. The Board of Directors may establish such other committees as it deems necessary and advisable. The Chair of the Corporation shall appoint the members of such committees. These committees shall be committees of the Corporation, not of the Board, and shall have only the powers specifically delegated to them by the Board and shall have no authority to bind the Board.

Section 3. Committee Operating Procedures. Each committee shall meet upon call of its chair or of any two (2) of its members upon such notice given to its members as is provided in these By-Laws for the giving of notice to Directors for meetings of the Board of Directors or upon such other notice, if any, as the committee may determine. A majority of members of a committee shall be present to constitute a quorum. The chair of each committee shall be appointed by its members unless appointed by the Board of Directors, the Chair of the Corporation, or otherwise set forth in these By-Laws. Acts and decisions of the committees shall be by majority vote of those present at the time of the vote, if a quorum is present at such time. The committees shall keep regular minutes of their proceedings and shall report to the Board upon request.

ARTICLE VI - BOOKS AND RECORDS; FINANCIAL MATTERS

Section 1 - Books. The Corporation shall keep complete books of all the business transactions of the Corporation and minutes of the proceedings of its Board of Directors and committees, as well as copies of its Certificate of Incorporation, these By-Laws, any and all annual financial statements of the Corporation, and any quarterly income statements or balance sheets of the Corporation prepared by it.

Section 2 - Fiscal Year. The fiscal year of the Corporation shall be July 1 through June 30.

Section 3 - Ownership of Assets. No director, officer or employee of the Corporation shall have any right, title or interest in any of the assets and funds of the Corporation; all assets and funds of the Corporation shall be owned exclusively by the Corporation.

Section 4 – Banks Accounts, Deposits. All funds of the Corporation shall be deposited in an account or accounts in the name of the Corporation in a bank or banks designated by the Board and shall be used solely to pay the proper expenses of the Corporation.

Section 5 - Signatures. All checks, drafts, notes, orders for the payment of money, withdrawals, and evidences of indebtedness of the Corporation shall be signed by signatories determined

annually by the Board of Directors and approved by the College. Instruments regarding amounts over \$2,500 must be signed by two authorized signatories.

Section 6 - Contracts. No contract may be entered into on behalf of the Corporation unless and except as authorized by the Board of Directors; any such authorization may be general or confined to specific instances. The Chair, his or her designee from among the other Directors, and the Treasurer are authorized to sign contracts on the Corporation's behalf.

Section 7 – Investments. Any funds or other assets of the Corporation which, in the judgment of the Board of Directors, shall not immediately be required to effect the purposes of the Corporation, may be invested, reinvested, and administered by the Board of Directors in such investments as in the judgment of the Board of Directors are sound and proper. The Treasurer shall have the authority to invest and reinvest such funds in Bank Certificates of Deposit, Bank Savings Accounts, U.S. Treasury Notes and Certificates, or the CUNY Investment Pool, without further action of the Directors.

Section 8 - Financial Records and Accounts. The Corporation's financial records and accounts shall be kept in a form consistent with generally accepted accounting principles.

Section 9 - Audit. The Corporation's financial records and accounts shall be audited annually, and at such other times as directed by the Board of Directors, by an independent certified public accountant or firm designated by the Audit Committee.

ARTICLE VII - GOVERNANCE

The Corporation shall operate consistent with the bylaws, policies and regulations of The City University of New York and any policies, regulations and orders of the College, including by not limited to the Financial Management Guidelines for Auxiliary Enterprise Boards. Nothing contained in these By-Laws shall be construed as diminishing the rights, duties and intentions as defined in Article XVI of the By-laws of the Board of Trustees of The City University of New York.

ARTICLE VIII - AMENDMENTS

The Certificate of Incorporation and By-laws of the Corporation may be amended, altered or repealed in whole or in part, by the affirmative vote of at least nine Directors at any regular or special meeting of the Board, provided that written notice of the substance of the amendment is given with notice of the meeting, to all Directors, in accordance with the notice provisions set forth in Article III, Section 5 of these By-laws. Any proposed amendment to the Certificate of Incorporation or By-laws of the Corporation is subject to the approval of the Board of Trustees of The City University of New York.

ARTICLE IX - INSURANCE AND INDEMNIFICATION

Section 1 - Insurance. The Corporation will purchase appropriate insurance for the protection of the Directors, officers and employees of the Corporation.

Section 2 - Indemnification. The Corporation shall, to the full extent authorized by law, indemnify any person made, or threatened to be made, a party to any action or proceeding by reason of the fact that he or she was a director, officer, employee, or agent of the Corporation. The Corporation shall also indemnify to the full extent permitted by law any officer, director or employee serving any other corporation, partnership, joint venture, trust, employee benefit, or other enterprise in any capacity at the request of the Corporation.

ARTICLE X - DISSOLUTION

In event of dissolution of the Corporation, all of the remaining assets and property of the Corporation, after deduction of necessary expenses, shall be distributed, as determined by the Board of Directors and approved by order of a Justice of the Supreme Court of the State of New York, to The City University of New York for the use and benefit of the College or any successor thereof, or to an organization which supports the College or any successor thereof and which satisfies Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Approved by the Corporation on November 6, 2014, with amendments approved on May 7, 2015.

Approved by the CUNY Board of Trustees on March 2, 2015, Cal. No. 6.A., with amendments approved on June 29, 2015, Cal. No. 6.A.