

Bylaws of the Mitchell Technical College Foundation

These Amended and Restated Bylaws of Mitchell Technical Institute Foundation to the Mitchell Technical College Foundation have been adopted as the Bylaws of the Corporation on this 22nd day of April, 2021, by the Board of Trustees pursuant to authority conferred on the Board of Trustees by SDCL Chapters 47-22 to 47-28, inclusive and the Articles of the Corporation.

ARTICLE I - Name, Principal and Seal

Section 1. Name of Corporation. The name of the corporation is Mitchell Technical College Foundation (hereinafter referred to as the “Foundation”).

Section 2. Principal Office. The principal office of the Foundation shall be located at the Mitchell Technical College in the Campus Center located at 1800 E. Spruce St., Mitchell, SD 57301 (hereinafter referred to as “MTC”).

Section 3. Seal. MTC shall provide the logo and have inscribed thereon the name Mitchell Technical College Foundation.

ARTICLE II - Purposes

The Foundation is organized for the express purpose of receiving donations and nurturing gifts and perpetual endowments for the sole benefit of MTC. The purposes for which the Foundation is organized are exclusively charitable and educational within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, or its successor provisions, either directly or by contributions to organization duly authorized to carry on such activities. The charitable and educational purposes are designed to benefit the students, academic programs, and activities of MTC. The MTC Foundation is the primary depository of private gifts and will transfer funds to the designated entity within MTC in compliance with donor intent, institution policy, and applicable laws.

The Foundation shall not accept any gift, donation, or grant which creates a future liability for MTC without the advance and written approval from the president of MTC.

ARTICLE III - Non-Profit Status

The Foundation is organized exclusively for charitable and educational purposes as a non-profit corporation and its activities shall be conducted solely for those purposes.

The Foundation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office or any proposed ballot issue, notwithstanding any of the provisions of these Bylaws.

The Foundation shall not participate in any other activities not permitted to be carried out by (1) a corporation exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986, or (2) a corporation, contributions to which are deductible under Section 170(c) (2) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax law.

ARTICLE IV - Board of Trustees

Duties of the Board of Trustees:

- a. Serve as an active and involved volunteer, to include service on MTC Foundation committees, either as assigned or with a willingness to serve in those areas where the member is determined to have specific professional expertise; and
- b. Foster and promote such programs, events or activities that would further the charitable purposes of the Foundation; and
- c. Attend meetings and participate in events as needed by the College and as outlined in the Board's policy manual; and
- d. Abide by the policies and processes set out in the Board Member Manual; and
- e. Help to raise restricted and unrestricted funds and solicit and accept donations of an in-kind nature, or other gifts, following donor intent, to be used for scholarships, program support, and/or campus/capital improvements for MTC; and
- f. Serve as a member of standing committee(s) to include Fundraising; Finance/Investment; Nominating; Executive; and others as appointed by the Executive Committee from time to time, or as authorized by the Board; and
- g. Adhere to any Conflict of Interest laws or policies; and
- h. Provide general assurances in following an MOU/Memorandum Of Understanding between the Foundation and MTC; and
- i. Provide general governance in the operation of the Foundation

Section 1. Number of Trustees. The business and affairs of the Foundation shall be managed by a Board of Trustees consisting of not less than five (5), nor more than fifteen (15) Trustees; including one (1) MTC faculty member with full equal voting rights and equal rights to be elected as an officer, excepting the office of Chair. The Board itself shall from time to time by resolution establish the number of Trustees on the Board. Upon the expiration of the term or resignation of a Trustee, the remaining Trustees may nominate and elect a replacement Trustee. The Dean of Financial Operations or designee of MTC shall serve continuously as an ex-officio non-voting Trustee.

Section 2. Term. A Trustee may serve for a term of three (3) years and until a successor has been elected and qualified. If any position on the Board of Trustees becomes vacant by reason of death, resignation, retirement, disqualification, or any other cause, the majority of the Trustees then in office may elect a Trustee brought to the full board by the Nominating Committee to fill such vacancy and the Trustee so elected shall hold office and serve for the unexpired term and until re-election or election of a successor. Except as provided in determining the initial terms of the Trustees, a Trustee may serve three (3) successive three (3) year terms unless elected as an officer in which case the Trustee's terms may be extended while in office. After being off the Board for one (1) year, a person may be a candidate for additional terms on the Board.

Section 3. Annual meeting. The annual meeting of the Board of Trustees shall be at a time, date and location determined by the Board for the purpose of electing replacement Trustees and officers for the Foundation and for the transaction of such other business such as the annual financial report that may come before the meeting.

Section 4. Regular meetings. Regular meetings of the board of Trustees shall be held from time to time at such time and place as may be fixed by resolution adopted by a majority of the Board of Trustees.

Section 5. Special Meetings. Special meetings of the Board of Trustees may be called by the Chair or upon written request by any three Trustees and shall be held at such time and place as may be designated in the notice of the meeting.

Section 6. Electronic Meetings. Regular and Special Meetings of the Board of Trustees, or any duly constituted committee thereof may be conducted via electronic communications through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can communicate with one another, provided all other provisions of this article are also met. Such participation in the meeting shall constitute presence in person at the meeting.

Section 7. Notice of Meeting. Notice of annual or regular meeting of the Board of Trustees shall be given to each Trustee in writing, by electronic or other means of communication, at least five business days prior to the date of the meeting. Notice of special meetings shall be given to each Trustee by electronic means, mail or in person, at least twenty-four (24) hours in advance.

Section 8. Quorum. At all meetings of the Board of Trustees, a majority of the Trustees shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of the majority of such Trustees present at any meeting at which there is a quorum shall be the act of the Board of Trustees, except as may be otherwise specifically provided by statute or Bylaws.

Section 9. Policies. The Board shall maintain a Board Member Manual and set of adopted operating policies which will be reviewed in a rotating cycle at each year's Annual Meeting.

Section 10. Board Action Without Meeting. Any action that could be taken at the meeting of the Board of Trustees, or any duly constituted committee thereof, may be taken without a meeting when authorized in writing and signed by all of the Trustees or all of the Trustees on such committee.

Section 11. Chairperson. At all meetings of the Board of Trustees, the chair, or in his/her absence the vice-chair, and in his/her absence a chairperson chosen by the Trustees, shall preside.

ARTICLE V - Officers

Section 1. Number. The officers of the Foundation shall be the chair, vice-chair and treasurer, with such powers and duties not inconsistent with these Bylaws as may be appointed and determined by the Board of Trustees.

Section 2. Election, Term of Office, and Qualification. The officers shall be elected every two years by the board of Trustees from among their number.

Section 3. Vacancies. In case any office of the Foundation becomes vacant by death, resignation, retirement, disqualification, or any other cause, the Executive Committee will select from the membership of the full Board of Trustees, an interim officer to fill such vacancy and the officer so selected shall hold office and serve for the unexpired term and until the election and qualification of such successor.

Section 4. Officer Roles. The Officers of the Board of Trustees shall have the following responsibilities in their roles:

Chair – The Chair shall preside over all meetings of the Board of Trustees and its Executive Committee; sign all Foundation documents unless he/she delegates that responsibility to another Officer; and direct the process of the creation and implementation of resolutions.

Vice-Chair – The Vice-Chair shall be responsible for performing the duties of the Chair in the Chair's absence and assist the Chair with the performance of his/her duties.

Treasurer – The Treasurer shall work in collaboration with MTC's Dean of Financial Operations or designee in preparing the annual Foundation Financial Report and/or additional reports as

needed. The Dean of Financial Operations or designee of MTC shall prepare and present reports regarding Foundation finances no less often than at the annual meeting of the Board of Trustees.

Section 5. Removal. An officer may be removed from office by an affirmative vote of two-thirds of the Trustees at any regular or special meeting. Any officer proposed to be removed shall be entitled to at least five (5) business days' notice in writing by mail of the meeting of the Board of Trustees at which such removal is to be voted upon and shall be entitled to appear before and be heard by the Board of Trustees at such meeting.

ARTICLE VI - Indemnification of Trustees, Officers, Committee Persons and Employees

The Foundation shall indemnify and hold harmless each officer, Trustee, committee person or employee of the Foundation against and from all loss, costs, and reasonable expenses hereinafter incurred in the payment, settlement and defense of any claim, suit, or proceeding brought against such person, because such person is or has been such officer, Trustee, committee person, or employee, or because of any action alleged to have been taken or admitted as officer, Trustee, committee person or employee. Such rights shall not apply in relation to any matters as to which such officer, Trustee, committee person or employee shall be adjudged in final judgment in such suit or proceeding to not have acted in good faith or in a manner reasonably believed to be in and not opposed to the best interest of the Foundation, and if the suit or proceeding is a criminal one, when such officer, Trustee, committee person or employee had reasonable cause to believe his or her conduct was unlawful.

ARTICLE VII - Books and Records

MTC's Dean of Financial Operations or designee shall keep all correct and complete financial records of Foundation accounts and transactions. Designated MTC staff members will keep minutes of all proceedings of the Board and any subcommittees. Minutes will be kept on file in the MTC administrative offices.

ARTICLE VIII - Fiscal Year

The fiscal year of the Foundation shall begin on the first day of July and end on the last day of June of each year.

ARTICLE IX - Administration

Section 1. The Director for Foundation Relations shall be an employee of MTC and shall be appointed by the MTC President based on recommendations by the Search Committee for hiring a Director for Foundation Relations. The Chair of the Foundation and equal number of members representing the Foundation and MTC will make up the Search Committee.

Section 2. The job description for the Director for Foundation Relations shall be developed and updated with input by the Foundation's Executive Committee and finalized by the MTC President and kept on file in MTC's VP of Operations office (Human Resources).

The responsibility and authority of the Director for Foundation Relations shall include:

- a. Provide notices of all meetings to the Board of Trustees.
- b. Collect a signed "Conflict of Interest" form annually to ensure that Board of Trustee members self-disclose any conflict of interest and abstain from a vote when a conflict of interest exists.
- c. Monitor any gift, donation, or grant which may create a future liability for MTC and obtain the advance and written approval from the President of MTC in order to accept such gift, donation or grant.
- d. Maintain the list of membership of the Board of Trustees.

- e. Keep and organize minutes for all regular and special meetings.
- f. Create and maintain the official records of the Foundation.
- g. Carry out the tasks set forth in any MOU entered into with MTC.
- h. Develop and submit to the Board of Trustees for approval a plan of organization for the conduct of the operations of the Foundation and recommend changes when necessary.
- i. Work with MTC's Dean of Financial Operations or designee to ensure the following tasks are completed:
 - 1. Preparation and implementation of an annual budget showing the expected revenue and expenditures as required by the Board of Trustees. The Dean of Financial Operations or designee shall have the responsibility and custody of all funds of the Foundation.
 - 2. Maintain physical property in a good and safe state of repair and operating condition.
 - 3. Make presentations to the Board of Trustees of periodic reports reflecting the charitable and financial activities of the Foundation and such special reports as may be required by the Board of Trustees.
- j. Attend all meetings of the Board of Trustees and serve on committees thereof.
- k. Prepare a plan for the achievement of the specific objectives of the Foundation and periodically review and evaluate that plan.
- l. Participate in community, regional and national activities to enhance the image of the Foundation as a good corporate citizen.

Section 3. The Director for Foundation Relations's annual performance review shall have input from the Chair and/or Executive Committee and appointed committee Chairpersons and completed by the MTC President. Termination and/or Non-renewal of the Director for Foundation Relations's contract, shall be at the sole discretion of the MTC President.

Section 4. MTC's Foundation office serves as headquarters for the Foundation. The staff seeks to perform its assignments in cooperation with the Foundation Board of Trustees, MTC Administration, Faculty and Staff. To the extent its personnel and budgetary resources will allow, the Foundation office will assist the academic areas and their organizational units at MTC in obtaining gifts from private sources within the policies and gift priorities established by the Foundation and MTC. The Foundation office is the designated department to receive and acknowledge all gifts to the Foundation and MTC.

ARTICLE X - Waiver of Notice

Whenever any notice whatsoever is required to be given under the provisions of the Non-Profit Corporation Act of South Dakota or under the provisions of the Articles of Incorporation or the Bylaws of the Foundation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XI - Amendments to Bylaws

The Board of Trustees shall have the power to make, alter, amend or repeal these Bylaws by a vote of two-thirds of the Trustees who are present and entitled to vote at any meeting, provided that notice of the proposed amendment shall have been given to the Trustees in the notice of such meeting.