

CORPORATE BYLAWS

Table of Contents

Article I – Trustees

Section 1 - Number, Classification, Term

Section 2 - Alumni Members

Section 3 - Resignation and Vacancies

Section 4 – Nomination

Section 5 - Powers and Duties

Section 6 - Removal

Article II – Meetings

Section 1 - Regular Meetings, Notice

Section 2 - Special Meetings, Notice

Section 3 - Quorum, Action of the Board

Section 4 - Minutes and Publication

Section 5 - Action Without a Meeting

Section 6 - Participation by Telephone

Article III - Corporate Officers

Section 1 - Officers of the Corporation

Section 2 - Chair of the Board of Trustees

Section 3 - Vice Chairs

Section 4 - Treasurer

Section 5 - Secretary

Article IV – Committees

Section 1 – Standing Committees

Section 2 – Executive Committee

Section 3 – Academic Affairs Committee

Section 4 – Investment Committee

Section 5 – Finance Committee

Section 6 – Trusteeship Committee

Section 7 – Audit Committee

Section 8 – Facilities Committee

Section 9 – Compensation and Benefits Committee

Section 10 – Medicine and Health Committee

Section 11 – Other Committees

Section 12 – Committee Procedures

Article V – The University and Its Officers

Section 1 - The University and Its Officers

Section 2 – Authority

Section 3 - Board Authority Over Academic Hiring Decisions

Section 4 - The President

Section 5 - The Provost

Section 6 - Vice Presidents

[Section 7 - New York Office](#)

[Article VI - Relation of University Officers to Trustees/Corporate Funds](#)

[Section 1 - Disposition of Assets](#)

[Section 2 - Comptroller's Duties and Responsibilities](#)

[Article VII - Annual Report](#)

[Article VIII - The Senate of the University](#)

[Section 1 - Election](#)

[Section 2 - Ex-Officio Members](#)

[Section 3 - Duties and Responsibilities](#)

[Article IX - The Board of Deans](#)

[Section 1 - Composition](#)

[Section 2 - Duties and Responsibilities](#)

[Section 3 - Additional Duties](#)

[Article X – Faculties](#)

[Section 1 - Duties and Responsibilities](#)

[Section 2 - Procedures](#)

[Article XI - Nondiscrimination Policy as to Students](#)

[Article XII - Policy on Conflict of Interest](#)

[Article XIII - Provident Fund Account](#)

[Article XIV - Waiver of Notice](#)

[Article XV - Liability and Indemnification](#)

[Section 1 - Liability of Trustees, Non-Trustee Committee Members, and Officers](#)

[Section 2 - Indemnification Generally](#)

[Section 3 - Advancement of Expenses](#)

[Section 4 - Restrictions Against Indemnification](#)

[Section 5 - Insurance](#)

[Article XVI - Amendment of Bylaws](#)

[Appendix I - Conflict of Interest and Intermediate Sanctions](#)

[Appendix II - Provisions of the Code Related to Intermediate Sanctions](#)

[Back to Top](#)

(To download this policy in Word format, [click here](#))

For any comments, feedback, or query, please contact: policies@aub.edu.lb.

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Article I - Trustees

Section 1 - Number, Classification, Term

The number of trustees of the American University of Beirut (the "Corporation") shall be not more than forty-five, nor less than twenty-one, as shall be set by resolution of the Board of Trustees. The Corporation shall have no members. The Board of Trustees shall be divided into three classes as nearly equal numerically as may be, with their respective terms of office expiring at successive annual meetings of the Board of Trustees upon the election and qualification of successors, and with the president of the University being a member ex-officio of one of such classes. At each annual meeting of the Board of Trustees, or at any adjournment thereof, successors to the class whose term then expires shall be elected for a term of three years and until the election and qualification of their successors.

Section 2 - Alumni Members

Three members of the Board of Trustees shall be alumni of the University who are chosen by the alumni in accordance with the procedures of the Worldwide Alumni Association of the American University of Beirut (WAAAUB Trustees). The three individuals chosen by the alumni shall be recommended to the Membership and Nominations Committee for nomination in the committee's discretion for election to the Board of Trustees. Each WAAAUB Trustee so elected shall serve no more than one three-year term and will not be eligible to serve another three-year term without a hiatus of at least one year, except that any initial WAAAUB Trustee who serves for only one year may be eligible for re-nomination by the alumni acting through WAAAUB for a full three-year term.

Section 3 - Resignation and Vacancies

Any trustee may resign by a notice in writing to the chair of the board or the secretary. By vote of a majority of the trustees then in office, a vacancy in the Board of Trustees may be filled at any meeting for the remainder of the unexpired term and until the election and qualification of a successor.

Section 4 - Nomination

No candidate for election to the Board of Trustees shall be elected a trustee at any meeting unless such candidate has been nominated to the board in accordance with the procedures established by the Membership and Nominations Committee of the board or under Section 2 of this Article. A person who has reached the age of seventy-five years shall normally not be eligible for election or re-election as a trustee and shall cease to be a trustee at the annual meeting of the Board of Trustees held after such person shall have reached the age of seventy-five years, provided, however, that the board, after review by the Membership and Nominations Committee, may invite such a trustee to serve for an additional term as determined by the board. In election to the board, the Corporation shall maintain an adequate representation by trustees with an academic background. At all times, there shall be at least three members of the board who are alumni of the University.

Section 5 - Powers and Duties

It shall be the responsibility of the Board of Trustees to establish policies for the operation of the board, the Corporation, and the University; to specify the duties and responsibilities of the chair or co-chairs of the board, the vice chairs, the president of the University, and, with the advice of the president, the vice presidents of the University, the provost, the Senate, the Board of Deans and the deans of the various faculties, and the New York Office and its senior representatives.

Section 6 - Removal

The board may remove any trustee for cause by vote of a majority of the entire board, provided that notice of the proposed action be given with the notice of meeting.

[Back to Top](#)

Article II - Meetings

Section 1 - Regular Meetings, Notice

Regular meetings of the Board of Trustees shall be held at least three times each year. The annual meeting of the Board of Trustees shall be held in February or March of each year on a date to be fixed by the chair of the board. A second regular meeting of the board shall be held in June or July, and a third regular meeting in November or December on dates to be fixed by the chair. Notice of the meetings shall be in writing and sent to each trustee by mail, fax, or electronically, not less than five days in advance of the meeting.

The Board of Trustees at its annual or regular meetings shall consider and take action with respect to the annual report of the president of the University, the annual budget of the University, fiscal forecasts and funding programs, personnel administration, requirements and recruitment, facilities of the University, the annual report of the Corporation as required by Section 519 of the Not-for-Profit Corporation Law, and any other matters properly brought before the board.

Section 2 - Special Meetings, Notice

The chair or a vice chair or any three members of the Board of Trustees may call a special meeting of the Board of Trustees. Notice of any special meeting of the Board of Trustees shall be in writing and sent to each trustee by mail, fax, or electronically, not less than five days in advance of the meeting.

Section 3 - Quorum, Action of the Board

Except as otherwise provided by applicable law or these bylaws, a majority of the whole number of trustees then in office, present in person, shall constitute a quorum for the transaction of business at meetings of the board, and the act of the majority of the trustees present at any meeting at which a quorum is present shall be the act of the trustees. In the absence of a quorum, those present at the time and place set for a meeting of the Board of Trustees may take an adjournment from time to time until a quorum shall be present, and no notice of any such adjourned meeting need be given.

Section 4 - Minutes and Publication

The secretary shall keep or cause to be kept minutes of each meeting which fairly reflect decisions reached and actions taken. A copy of the minutes shall be given to each trustee promptly after each meeting and the original shall be kept by the secretary with the records of the Corporation. To the extent deemed appropriate by the Board of Trustees or the chair of the board, the decisions and actions of the Board of Trustees shall be disseminated to the appropriate agencies and published in suitable media of the University or submitted for publication in the public press.

Section 5 - Action Without a Meeting

Any action required or permitted to be taken by the Board of Trustees may be taken without a meeting if all the members of the board consent to the action in writing. The written consents

to such action shall be filed with the minutes of the proceedings of the members of the Board of Trustees.

Section 6 - Participation by Telephone

Any one or more members of the Board of Trustees may participate in a meeting of the board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

[Back to Top](#)

Article III - Corporate Officers

Section 1 - Officers of the Corporation

The Board of Trustees shall elect at any meeting, as officers of the Corporation, a chair (or in place of a chair, may elect co-chairs), one or more vice chairs, a secretary, and a treasurer to serve at the pleasure of the board. Such officers shall exercise the usual duties of their respective offices. The Board of Trustees may also elect and define the duties of such other officers and agents as it may determine.

Section 2 - Chair of the Board of Trustees

The specific duties of the chair (or co-chairs) of the Board of Trustees shall be:

1. To preside at meetings of the Board of Trustees and the Executive Committee.
2. To appoint, with the advice and consent of the Board of Trustees or the Executive Committee, such academic and non-academic committees of trustees as the chair shall deem to be in the best interest of the Corporation.
3. To be a member ex-officio of all committees of the Board of Trustees.
4. Through the appropriate agencies of the board or the University, to suggest, guide, and coordinate the plans and programs of the Corporation and the University for submission to and action by the board or other agency.
5. To perform such other duties as the Board of Trustees or the Executive Committee shall determine.

Section 3 - Vice Chairs

The vice chair or vice chairs, if any, will preside over meetings of the board in the absence or at the request of the chair or co-chairs. The vice chairs shall be ex-officio members of the Executive Committee.

Section 4 - Treasurer

The treasurer shall have general oversight of the financial affairs of the Corporation. The treasurer shall cause regular and correct accounts to be kept and shall cause reports to be submitted to the board and Executive Committee. The treasurer shall be a member of the Finance Committee and shall serve as its chair.

Section 5 - Secretary

The secretary of the Corporation shall be located in the New York Office of the University. The secretary shall perform the usual duties of a corporate secretary and shall be responsible for the records of the Corporation and for the preparation for the Corporation and the Board of Trustees of such reports to governmental or other agencies as shall be required.

[Back to Top](#)

Article IV – Committees

Section 1 - Standing Committees

The standing committees of the Board of Trustees shall be the Executive Committee, Academic Affairs Committee, Audit Committee, Development Committee, Investment Committee, Finance Committee, Trusteeship Committee, Facilities Committee, Compensation and Benefits Committee, and Medicine and Health Committee. The Board may, by resolution adopted by a majority of the entire board, designate other standing committees and define their responsibilities. Standing committees shall be composed of trustees who shall be elected by a majority of the entire board. Trustees emeriti may be elected by the board to any standing committee, but shall not be entitled to vote or be counted for the purpose of establishing a quorum. Any standing committee shall have the power to retain advisors as it deems appropriate.

Section 2 - Executive Committee

The Board of Trustees shall elect five or more trustees to constitute an Executive Committee of the Board of Trustees which shall exercise the powers of the board in the management of the business and affairs of the Corporation between meetings of the board. The Executive Committee shall not exercise any powers denied to it by the applicable law of the State of New York.

Section 3 - Academic Affairs Committee

The Board of Trustees shall elect three or more Trustees to constitute an academic affairs committee. The Academic Affairs Committee shall have responsibility for guiding and overseeing the university's academic programs, including reviewing matters of academic and educational programming, including instructional programs, academic priorities and planning academic facilities. The Academic Affairs Committee shall review and make recommendations to the Board on all degree programs and curriculum changes and shall make recommendations to the Board on all academic appointments, promotions and tenure decisions and engage in strategic planning for the university's educational programs and academic affairs.

Section 4 - Investment Committee

The Board of Trustees shall elect three or more trustees to constitute an investment committee. The Investment Committee shall supervise and manage the investment and reinvestment of the funds of the Corporation. The Investment Committee shall establish investment guidelines in accordance with an investment policy approved by the board and shall have the authority to exercise those powers relating to the investment management of the Corporation's assets which are conferred upon the Corporation bylaws. In addition, the Investment Committee shall appoint, oversee the performance of, and terminate investment managers responsible for the Corporation's assets. The Board of Trustees may create a subcommittee of the Investment Committee consisting of the chair of the Investment Committee and at least two other members which shall be empowered to exercise all powers of the Investment Committee between its meetings. The Investment Committee shall present a report to the board at each meeting of the board.

Section 5 - Finance Committee

The Board of Trustees shall elect three or more trustees to constitute a finance committee. The Finance Committee shall review the annual operating and capital budgets for the University as prepared by the president of the University and shall present the same, with any recommendations for changes or additions thereto, to the Board of Trustees. The Finance Committee shall review all requests for expenditures or the incurring of obligations by the University which are not included in the budget approved by the board and shall make recommendations with respect thereto upon presentation of such requests to the Executive Committee or the board for appropriate action. The Finance Committee shall recommend to the board such action as the committee may deem advisable to improve the financial situation of the University.

Section 6 - Trusteeship Committee

The Board of Trustees shall elect three or more trustees to constitute a trusteeship committee. The Trusteeship Committee shall from time to time review the composition of the Board of Trustees, shall present to the board names of candidates for election to the board, and shall nominate a slate of officers and members of committees for election by the board at its annual meeting. The committee shall have the responsibility of welcoming, providing orientation, and arranging trustee mentors for new trustees, establishing criteria for service on the board, and evaluating the performance of trustees. From time to time, the committee shall review governance issues and make recommendations to the board with respect thereto.

Section 7 - Audit Committee

The Board of Trustees shall elect three or more trustees to constitute an audit committee. The Audit Committee shall hire and approve the compensation of the external auditor, shall define the scope of the audit to be performed, and shall generally oversee the external auditor. The committee shall review the annual audited financial statements of the Corporation prior to their submission to the board. The Audit Committee shall review reports from the internal auditor, who reports to the Audit Committee and the president, and shall review and approve the internal auditor's annual audit plan. The appointment or dismissal of the internal auditor shall be subject to the approval of the Audit Committee. The Audit Committee shall approve the compensation of the internal auditor. The Audit Committee may examine and consider such other matters relating to the internal and external audit of the accounts of the Corporation and relating to the Corporation's financial affairs and financial controls as the Audit Committee may, in its own discretion, determine to be desirable.

Section 8 - Facilities Committee

The Board of Trustees shall elect three or more trustees to constitute a facilities committee. The Facilities Committee shall be responsible for reviewing all additions to, or modifications of, the University's Physical Plant, and for overseeing the location, design, and construction of new buildings as well as major repair of existing university buildings. It will also assume responsibility for review of plans for major landscaping changes and will assure itself that the University's grounds are maintained in keeping with the beauty of the campus. It may make recommendations to the Board of Trustees regarding the appointment of architects and contractors for specific projects involving the University's buildings and grounds. Although the committee will not be empowered to purchase, sell, mortgage, or lease real property on

behalf of the University, it will study any proposal for the purchase, sale, mortgage, or lease of real property and will make recommendations thereon to the Finance Committee or to the board.

Section 9 - Compensation and Benefits Committee

The Board of Trustees shall elect three or more trustees to constitute a compensation and benefits committee. On behalf of the board, the Compensation and Benefits Committee shall fix the salaries of the following officers of the University: The president, and on the recommendation of the president, the vice presidents, the provost, the deans of the various faculties, the comptroller, and any other individuals as required by applicable law. Additionally, the Compensation and Benefits Committee shall be authorized to perform any and all functions of the Board of Trustees with respect to the retirement plans and programs and other benefits of the University, including oversight of the administration of these plans, approving amendments to these plans, suspending or terminating any of the plans, adopting new plans, approving voluntary retirement or separation arrangements, and approving the appointment of members to the University's Employee Benefit Committee. Any actions that may be taken by the Compensation and Benefits Committee may be taken by an individual or committee duly delegated or provided with that authority by the Compensation and Benefits Committee or by the Board of Trustees.

Section 10 - Medicine and Health Committee

The Board of Trustees shall elect three or more trustees to constitute a medicine and health committee. The Medicine and Health Committee shall have responsibility for oversight of the AUB medical center, the University's Faculty of Medicine and Faculty of Health Sciences, and for ensuring that they fulfill their mission of providing excellent, accessible, and comprehensive health services to the people of Lebanon and the region through patient care, education, and research. Its responsibilities include reviewing and making recommendations to the board on major affiliations relating to the medical center; reporting on the medical center's finances and operations; overseeing the Medical Practice Plan of the academic staff of the medical staff; and receiving and reviewing reports on research programs and compliance. There shall be a Performance Improvement Subcommittee of the Medicine and Health Committee, which shall engage in quality assurance and risk management for the medical center.

Section 11 - Other Committees

The Board of Trustees may, by resolution, create such special committees as it may deem desirable. The members of each special committee, who need not be trustees, shall be appointed by the chair with the consent of the board. Each committee created pursuant to this section shall have such authority as may be delegated to it by the board in the resolution creating such committee.

Section 12 - Committee Procedures

Each committee may adopt such charters or other rules or guidelines to govern its proceedings as it shall deem appropriate, subject to approval by the Executive Committee or Board of Trustees. Each committee shall consist of members who are elected or appointed to the committee annually. Each member of a committee shall serve at the pleasure of the

board. A majority of the committee membership will constitute a quorum for the transaction of business, and the majority vote of committee members present at any meeting at which a quorum is present will constitute the action of the committee. Any committee may act without a meeting if all the members of such committee consent to the action in writing and such written consents are filed with the minutes of the proceedings of such committee. Any one or more members of any committee may participate in a meeting of such committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

[Back to Top](#)

Article V – The University and Its Officers

Section 1 - The University and Its Officers

The Board of Trustees of the American University of Beirut has, pursuant to the Certificate of Incorporation, established a university at Beirut, Lebanon (the “University”). The Board of Trustees shall appoint and define the duties of the following officers of the University, and such other officers as the Board of Trustees shall designate: the president, and, on the recommendation of the president, the vice presidents, the provost, the deans of the various faculties, and the comptroller.

Section 2 – Authority

The University, through its appointed officers, shall be under the direction of the Board of Trustees. The Board of Trustees shall be the ultimate authority in the affairs of the University and shall have the exclusive right of removal, except that the board may, by resolution, delegate its authority with respect to such areas as it may deem appropriate, and the board’s power shall ordinarily be exercised in academic matters through the president of the University, the provost, and the deans of the various faculties.

Section 3 - Board Authority Over Academic Hiring Decisions

The Board of Trustees, on the recommendation of the president of the University, shall set the conditions for tenure, if tenure is to be offered, shall appoint professors and associate professors and all persons on tenure, and shall approve a scale of compensation for academic and administrative personnel.

Section 4 - The President

The president shall be the chief executive officer of the University and, in the absence of the provost, the president shall be the chief academic officer of the University. The president shall be ex-officio a member of the Board of Trustees and shall be an ex-officio member of all committees of the board other than the Audit Committee. The president shall serve as the liaison of the Board of Trustees with the faculty and administrators of the University, the alumni, and the institutions and communities served by the University. The president shall have the following duties:

1. To attend and participate in all meetings of the Board of Trustees.
2. To preside at meetings of the Senate of the University.
3. To preside at meetings of the Board of Deans.
4. To prepare an annual president’s report on the operations and the condition of the University for presentation to the Board of Trustees and to the faculty not later than the annual meeting of the Board of Trustees, which report shall deal with academic, personnel, fiscal, facilities, public relations, and other aspects of the University and shall be in a form suitable for such use as the Board of Trustees shall determine.

5. To present requests for faculty, facilities, or other resources for the University to the Board of Trustees or appropriate committees of the board.
6. To suggest, guide and coordinate the preparation of plans and programs for the University for submission to the Board of Trustees with the president's recommendations and, upon approval by the board, to direct the execution of such plans and programs.
7. To recommend and, with the approval of the Board of Trustees, to implement an active program of public relations with governments, institutions, and alumni.
8. To exercise sole responsibility for communication, exercise of control, and accountability between the Board of Trustees and the University.
9. To perform such other duties as the Board of Trustees or the Executive Committee may direct.

Section 5 - The Provost

The provost shall be the chief academic officer of the University. The provost shall be an ex-officio member of the Senate and of the Board of Deans and shall perform such other duties as the Board of Trustees, the Executive Committee, or the president may direct.

Section 6 - Vice Presidents

The Board of Trustees, on the recommendation of the president, shall appoint such vice presidents of the University as the board shall deem advisable, and their functions shall be defined by the board with the advice of the president. The president shall consult with the Senate on recommending the establishment of such posts, insofar as they relate to the academic life of the University.

Section 7 - New York Office

There shall be an office of the University in New York which shall be responsible for maintaining the consolidated financial books and records of the Corporation. The New York Office shall be headed by a director (who may be a vice president of the University) who shall direct the operation of the office. The director shall report to the chair of the Board of Trustees and to the president of the University and shall perform the duties of the director in close coordination with the president and financial officers of the University and the Board of Trustees.

The director and the staff of the New York Office and the secretary shall also perform such service or other functions for the Corporation, the Board of Trustees, and for the University as shall be authorized by the Board or by the president of the University.

[Back to Top](#)

Article VI – Relation of University Officers to Trustees in Respect to Corporate Funds

Section 1 - Disposition of Assets

The president of the University shall be accountable to the Board of Trustees for the safekeeping and disposition of all property and funds received by the president on behalf of the University from whatever source. All real estate, securities, and other assets of the Corporation shall be held in the name of, or in a manner indicating the ownership of such assets by, the Corporation.

Section 2 - Comptroller's Duties and Responsibilities

The comptroller of the University shall direct and control the activities and operations of the Comptroller's Office. The responsibilities of the comptroller shall include accounting, financial reporting, preparation and overseeing payment of payrolls, tax matters, compilation of statistics, and accounting systems and procedures; and the comptroller shall conduct all of these activities for managers of the operating departments of the University, including the hospital. The comptroller shall perform these duties under the administrative direction of the vice president for finance of the University.

[Back to Top](#)

Article VII - Annual Report

The comptroller of the University shall submit an annual financial report, covering the previous year and audited by the certified public accounting firm appointed by the Audit Committee of the board, to the vice president for finance of the University who shall submit it to the president of the University. The president shall present such annual financial report, together with the president's annual report of the operations and the condition of the University, and the president's recommendations thereon, to the Board of Trustees at its annual or a regular meeting.

[Back to Top](#)

Article VIII - The Senate of the University

Section 1 - Election

There shall be a senate of the University which shall be composed of members elected from the various faculties in a manner set forth in the bylaws of the Senate, adopted by the senate with the approval of the Board of Trustees.

Section 2 - Ex-Officio Members

The president of the University shall be ex-officio a member of, and president of, the senate. The deans of the various faculties of the University, the vice president of the University, the provost of the University, and the registrar shall be ex-officio members of the senate. In addition, there may be such other ex-officio members as are provided for in the bylaws of the Senate.

Section 3 - Duties and Responsibilities

The senate shall, within policies established by the Board of Trustees, be the academic legislative body for academic affairs of the University as a whole. It shall serve as a representative body to reflect and develop the needs and suggestions of the faculty with respect to curricula, personnel, and other matters affecting the academic functions of the University. It shall be responsible for the academic policy which affects the interrelation of the different faculties; and it may also recommend to the Board of Trustees, through the president, modifications or amendments to academic policies.

[Back to Top](#)

Article IX - The Board of Deans

Section 1 - Composition

There shall be a Board of Deans of the University, which shall be composed of the deans of the various faculties, that is, the deans of the Faculty of Agricultural and Food Sciences, the Faculty of Arts and Sciences, the Faculty of Engineering and Architecture, the Faculty of Medicine, and the Faculty of Health Sciences, and the dean of the School of Business, together with the president of the University who shall act as chair, the vice presidents, the provost, and the dean of students. All members of the Board of Deans shall vote on matters coming before the Board of Deans, except that in academic matters, including promotions, appointments in the ranks of associate professor, professor, and professor emeritus, award of tenure, provision of long-term contract, and sabbatical leaves, voting in the Board of Deans shall be restricted to the provost and the deans of the faculties and of the School of Business, except that the president of the University shall vote in the case of a tie.

Section 2 - Duties and Responsibilities

The Board of Deans shall constitute the academic executive body of the University and shall exercise responsibility for implementing the policies developed by the senate, the various faculties, or other sources affecting the operation of the faculties.

Section 3 - Additional Duties

The Board of Deans shall assist the president and other administrative officers of the University in carrying out and securing compliance with the non-academic policies and requirements of the University.

[Back to Top](#)

Article X - Faculties

Section 1 - Duties and Responsibilities

Each faculty, within policies established by the Board of Trustees, the president of the University, and the Senate, shall be the academic legislative body of its respective school or group of schools.

Section 2 - Procedures

Each faculty shall function according to bylaws approved by the senate, the president, and the Board of Trustees.

[Back to Top](#)

Article XI - Nondiscrimination Policy as to Students

The American University of Beirut admits students regardless of race, color, religion, gender, disability, or national origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school; the University does not discriminate on the basis of race, color, religion, gender, disability, or national origin in the administration of policies, scholarship and loan programs, or athletic or other school-administered programs

[**Back to Top**](#)

Article XII - Policy on Conflict of Interest

To ensure adherence by trustees and staff to the highest ethical standards in all matters affecting the Corporation's administration and operations, the Board of Trustees shall, from time to time, adopt a conflict of interest policy ([Appendix I](#)). This policy shall be designed to identify conflicts of interest and shall require full disclosure by the individual involved of any conflict or potential conflict.

[Back to Top](#)

Article XIII - Provident Fund Account

The Corporation shall maintain in its financial records an account entitled the "Provident Fund Account" which shall reflect, as of the end of each fiscal year of the Corporation, the then market value of the funds (and earnings thereon) which have been set aside from time to time by the Corporation to be applied toward the funding of the benefits under its retirement program for non-US citizens and end-of-service indemnity for certain of its employees and consultants, if applicable, under Lebanese Labor Laws, and severance payments for the Corporation's employees and consultants, if applicable. The assets in this account shall remain at all times a part of the general assets of the Corporation, subject to the absolute management and control of the Board of Trustees, and may be applied by the Board of Trustees in its sole discretion for any corporate purpose, provided, however, that none of such assets shall, under any circumstances, be used or applied for a purpose other than for the payment of benefits, or indemnity under said retirement program or labor laws, or the payment of severance to the Corporation's employees and consultants, if applicable, without the prior approval of at least three-fourths of the members of the Board of Trustees.

[Back to Top](#)

Article XIV - Waiver of Notice

Whenever any notice is required to be given under the provisions of the applicable law of the State of New York or under the provisions of the Certificate of Incorporation of these bylaws, a waiver thereof, in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

[Back to Top](#)

Article XV- Liability and Indemnification

Section 1 - Liability of Trustees, Non-Trustee Committee Members, and Officers

Except as otherwise provided by law, no trustee, non-trustee committee members or officer of the Corporation serving without compensation will be liable to any person other than the Corporation, based solely on such trustee's, non-trustee committee member's or officer's conduct in the execution of such office, unless such conduct constituted gross negligence or was intended to cause the resulting harm.

Section 2 - Indemnification Generally

Except as provided in Article XV, Section 4 below, the Corporation will indemnify any person made, or threatened to be made, a party to any action or proceeding, whether civil or criminal, by reason of the fact that such person or such person's testator or intestate is or was a trustee, non-trustee committee member, officer or employee of the Corporation, who serves or served the Corporation or, at the request of the Corporation, serves or served any other corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorney's fees, for which such person may be or become liable as a result of such action or proceeding and to the extent not covered by such person's or other enterprise's own insurance. The indemnification hereby granted will be in addition to and not in limitation of any other privilege or power which the Corporation may lawfully exercise with respect to indemnification or reimbursement of its trustees, non-trustee committee members, officers, or employees of the Corporation.

Section 3 - Advancement of Expenses

In addition, the Corporation will advance such person's related and reasonable expenses, including attorneys' fees, experts' fees, and consultant's fees upon receipt of an undertaking by or on behalf of such person to repay such advance if they are ultimately found not to be entitled to indemnification hereunder.

Section 4 - Restrictions Against Indemnification

The Corporation will not indemnify any person described in Article XV, Section 2 above if a judgment or other final adjudication adverse to such person establishes that the acts of such person or such person's testator or intestate were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that such person or such person's testator or intestate personally gained a financial profit or other advantage to which they were not legally entitled.

Section 5 - Insurance

The Corporation will have the power to purchase and maintain insurance to indemnify the Corporation and its trustees, non-trustee committee members, officers, and employees to the full extent such insurance is permitted by law.

[Back to Top](#)

Article XVI - Amendment of Bylaws

These bylaws may be amended or repealed at any meeting of the members the Board of Trustees by a majority vote of those present (except, however, that the provisions of Article XV and this Article XVI shall be amended or repealed only by vote of at least three-fourths of all of the members of the Board of Trustees), and provided in each instance that written notice of the proposed amendment or repeal, or the substance thereof, has been sent by mail, fax, or electronically to each member of the Board of Trustees, not less than five days in advance of such meeting.

[Back to Top](#)

APPENDIX I POLICY ON CONFLICT OF INTEREST AND INTERMEDIATE SANCTIONS

I. Compliance with AUB Conflict of Interest Policy and the N-PCL

Under the AUB conflict of interest policy, which is consistent with the provisions of the N-PCL, a trustee has an "interest" with respect to a transaction if the trustee, or a member of the trustee's immediate family.

1. Holds a fiduciary or leading position with an organization or individual which has or is seeking to have a relationship or establish an affiliation with AUB or with an organization or individual whose objectives or interests may be adverse to AUB's specific interest; or
2. Plays a leading role with respect to or has a significant financial interest in an organization that is a party to a business transaction with AUB.

A. Procedures

Under the AUB conflict of interest policy and under the N-PCL, transactions involving AUB, in which a trustee has an interest, are not void or voidable solely because of the existence of such interest. However, to ensure fairness in the board's decision-making processes and to protect AUB's interests when entering into a transaction or arrangement that might benefit the private interest of an AUB trustee, the board should implement the following procedures:

1. Duty to Disclose

Upon the first knowledge by a trustee that the board or a committee thereof is considering, or has considered, a transaction or arrangement with an organization in which the trustee has an interest, the trustee must disclose the existence and nature of his or her interest to the board or relevant committee.

2. Procedures for Addressing the Conflict

After the interested trustee discloses his or her interest, such trustee shall not vote on the proposed transaction or arrangement, but such trustee may be counted in determining the presence of a quorum and may participate in consideration of the proposed transaction or arrangement. Without vote of the interested trustee, the board or committee shall then determine whether the transaction or arrangement is in AUB's best interests and is fair and reasonable to AUB, and shall make a decision whether to enter into the transaction or arrangement in accordance with such determination.

3. Records of Proceedings

The minutes of the board or the committee considering the interest of an interested trustee should contain the following:

- a. The name of the interested trustee;
- b. The nature of the interested trustee's interest;

A record of any determination as to whether the transaction or arrangement considered was in the best interests of, and fair and reasonable to AUB, notwithstanding the interest and the specific reasons for supporting such determination; and

- c. The names of the persons who were present for the discussions on the transaction or arrangement and a record of any votes taken in connection therewith.

B. Violations of the Conflicts of Interest Policy

If the board or committee thereof has reasonable cause to believe that an interested trustee has failed to disclose an interest, it should inform the interested trustee of the basis for such belief and afford the interested trustee an opportunity to explain the alleged failure to disclose. If, after hearing the response of the interested trustee and making such further investigation as may be warranted in the circumstances, the board or committee determines that the interested trustee has failed to disclose an interest, appropriate corrective action should be taken, including reconsideration of whether the transaction or arrangement was in the best interests of, and was fair and reasonable to, AUB at the time it was undertaken.

C. Compensation Committees

As a general policy matter, an interested trustee should not be a member of any committee that has the responsibility for fixing his or her compensation.

II. Intermediate Sanctions

Please refer to "[Appendix II](#)".

A. What are "Intermediate Sanctions"?

As a public charity, AUB is subject to the "intermediate sanctions" provisions contained in code section 4958. Intermediate sanctions consist of excise taxes that the Internal Revenue Service (the "IRS") may impose on an applicable organization's "disqualified persons" who engage in "excess benefit transactions" with the organization and on certain organization managers, including Trustees, who knowingly allow such transactions to take place.

1. Disqualified Persons

Disqualified persons include any person in a position to exercise substantial influence over the organization's affairs at any time during the 5-year period before the transaction at issue was entered into (e.g., trustees and officers) and such individuals' family members and any entity in which a disqualified person or his or her family member owns more than 35 percent of the voting power, profits or beneficial interest. In the case of AUB, disqualified persons would include the following individuals and members of their families (spouses, children, parents, and siblings): trustees, corporate officers, deans, senior administrators, and other officials who exert influence over particular areas or divisions of AUB.

2. Excess Benefit Transactions

An excess benefit transaction is any transaction in which a disqualified person receives an economic benefit, directly or indirectly, the value of which exceeds the value the organization receives in return. An example of such a transaction is the payment of unreasonable compensation for services performed by a disqualified person.

B. Rebuttable Presumption of Reasonableness

Recently, the IRS released proposed regulations under code section 4958 to provide guidance on the application of intermediate sanctions. Under these proposed regulations, a compensation arrangement or other transaction between an organization and a disqualified person will not constitute an excess benefit transaction if the compensation or value of the transferred property is reasonable. The regulations provide a safe harbor provision under which an organization may establish a "rebuttable presumption of reasonableness" if it satisfies three criteria. If these three criteria are met, the IRS will not impose excise taxes unless it develops additional information showing that the compensation was not reasonable or the transfer was not at fair market value.

The three criteria are:

1. Governing Body or Committee Approval

The transaction must be approved by the organization's governing body (in AUB's case, the board) or a committee thereof composed entirely of individuals who do not have a conflict of interest with respect to the transaction. Therefore, it is essential that a board or committee member with a conflict recuse himself or herself from the meeting (other than to answer questions) and not be present during the debate and vote on the transaction. It was agreed at the March 1999 Audit Committee meeting that the Audit Committee would be charged with the responsibility for reviewing all transactions involving a disqualified person.

2. Comparability Data

The governing body or committee must rely on appropriate data in determining the comparability of the compensation or of the value of the transferred property. A governing body or committee has appropriate comparability data if, given the knowledge and expertise of its members, it has sufficient information to determine the reasonableness of compensation or the fair market value of a transaction.

3. Adequate Documentation

The basis for the determination of the governing body or committee must be adequately documented concurrently with the making of the determination.

III. Specific AUB Procedures to be Followed

With respect to issues of compensation, the Compensation Committee of the board will make its decisions and follow its own procedures.

With respect to other transactions between AUB and a disqualified person, AUB's administration should follow its normal bidding procedures. If, upon review of the bids, the administration believes that the disqualified person's bid should be accepted, it must then refer the matter to the Audit Committee, together with all the back-up material regarding all the bids and the reasons why the bid of the disqualified person should be accepted. The Audit Committee must then review all the materials and make its decision, documenting the basis for its ultimate decision.

[Back to Top](#)

APPENDIX II PROVISIONS OF THE CODE RELATED TO INTERMEDIATE SANCTIONS

The following are specific guidelines or definitions contained in the proposed regulations released under the intermediate sanctions provisions of the code. When final regulations are issued, some of these guidelines and definitions may change.

1. Conflict of Interest

Under the proposed intermediate sanctions regulations, a member of a governing body or a committee has a conflict of interest with respect to a transaction if the member:

- a. Is a disqualified person or a family member of any disqualified person participating in or economically benefitting from the transaction;
- b. Is in an employment relationship subject to the direction or control of any disqualified person participating in or economically benefitting from the transaction;
- c. Is receiving compensation or other payments subject to approval by any disqualified person participating in or economically benefitting from the transaction;
- d. Has a material financial interest affected by the transaction, or
- e. Approves a transaction providing economic benefits to any disqualified person participating in the transaction, who in turn has approved or will approve a transaction providing economic benefits to the member.

2. Comparability Data for Determining Reasonable Compensation or the Value of Property in a Transaction Involving a Disqualified Person

Appropriate comparability data include, but are not limited to:

- a. Compensation paid by similarly situated organizations, both taxable and tax-exempt, for comparable positions.
- b. Availability of similar services in the organization's geographic area.
- c. Independent compensation surveys compiled by independent firms.
- d. Actual written offers from similar organizations competing for the services of the disqualified person.
- e. Independent appraisals of the value of property involved in the transaction.

3. Adequate Documentation to Support the Decision

Documentation is adequate if the records of the governing body or committee note:

- a. The terms and date of the approved transaction;
- b. The members present during debate on the approved transaction and who voted on it;
- c. Comparability data obtained and relied upon by the committee and how the data was obtained;
- d. Actions taken with respect to consideration of the transaction by anyone who is otherwise a member of the governing body or committee but who had a conflict of interest with respect to the transaction, and
- e. If the governing body or committee determines that reasonable compensation or fair market value is higher or lower than the range of comparable data obtained, the basis for the determination.

A determination must be documented concurrently with the making of the determination. This means the records described above must be prepared by the next meeting of the governing body or committee occurring after the determination is made. The records must then be reviewed and approved by the governing body or committee as reasonable, accurate and complete within a reasonable time period after that meeting.

[Back to Top](#)