

BY-LAWS OF ATHENS STATE UNIVERSITY

PREAMBLE

As the only institution in the state of Alabama primarily offering upper division educational services, Athens State University continues to enjoy the important and unique position that it has always occupied within the community—and is, indeed, one of the few upper division institutions in the United States. As Alabama’s oldest institution of higher education, founded by the citizens of Athens in 1822 for women, Athens was transferred in 1842 to the Tennessee Conference of the Methodist Church. In 1975 Athens was accepted by the Alabama State Board of Education into the Alabama Community College System making it a public institution. Athens State University was approved to offer coursework at the junior and senior level of difficulty, leading to the baccalaureate degree.

Section 16-60-110, Code of Alabama 1975, was amended in 2012 by Legislative Act No. 2012-497 to remove Athens State University from under the jurisdiction, supervision, and control of the State Board of Education and Department of Postsecondary Education. This legislation enabled the creation of the Board of Trustees of Athens State University which is to provide governance of the university. It also authorized the Code Commissioner to revise references to Athens State University in the Code of Alabama 1975, as appropriate, to reflect the status of the university under this act.

Athens State University provides affordable education in an environment which recognizes diversity in concert with Title VI of the Civil Rights Act of 1964 and of the Constitution of the United States, and which nurtures the discovery and application of knowledge. Located in northern Alabama, Athens State University acknowledges a commitment to primarily serve transfer students of the Alabama Community College System, as well as students from other accredited institutions of higher education, and working adult students. The university may provide onsite academic instruction on the campuses of those community colleges where the senior institution in whose service area or areas the community college is located is unable or unwilling to provide the onsite instruction. The University prepares students for professional careers, graduate school, lifelong learning, and enrichment. The University, through quality teaching, individual attention, and a varied course delivery system, assists students in the timely achievement of their professional and career goals. In addition, Athens State University offers programs of continuing education and community services that provide a variety of cultural and professional opportunities.

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ARTICLE 1 - The Corporation

The school heretofore established in Athens, Alabama, and previously known as Athens State College and now known as Athens State University, is and shall remain a body corporate under the corporate name of Athens State University, and by that name, and under the direction of a board of trustees, may sue and contract, acquire, and hold real and personal property, and have and exercise all the powers of a corporation established to be a state educational institution of higher learning and shall succeed to all the rights, privileges, emoluments, benefits, interests, and titles heretofore at any time vested in the institution in its respective names.

However, Athens State University is not authorized to acquire, be acquired, merge or consolidate with any university or college located more than 50 miles from its current campus. None of the powers, authority, or functions of the corporation provided for in the act shall be abated or impaired by this article except as noted above. Whenever the institution is referred to in the laws of Alabama, by any one of the respective names by which it has been known, the same shall be considered to refer to Athens State University.

ARTICLE 2 – The Board of Trustees

Section 1. Membership.

There is created by State of Alabama Legislative Act No. 2012-497 a Board of Trustees for Athens State University. The board as constituted below, and their successors in office, shall be considered a body corporate under the name of Athens State University.

The board shall have the exclusive authority over and jurisdiction of land, buildings, and other capital improvements now existing on or hereinafter provided for such campus. No contract for capital improvements, alterations, remodeling, and changing of capital improvements shall be made without the authorization and approval of the board, and which approval shall be granted by appropriate resolutions of the body. Any contract, agreement, or other act relating to capital improvements, except for maintenance, repairs, and maintaining existing facilities, shall be void and of no effect unless authorized by resolutions of the board. The president of the university, with the approval of the board, may execute any lease, deed, or other instrument of conveyance on behalf of the corporation, without additional approval.

No trustee shall receive any pay or emolument, other than his or her actual expenses incurred in the discharge of his or her duties as a trustee. The board shall consist of the following voting members:

- (1) Six members shall be residents of either the fourth or fifth congressional districts as constituted on the effective date of the legislative act, at least two of whom shall be residents of the county in which the main campus of the institution is located.
- (2) Two members shall be appointed from the state at large.
- (3) One member shall be appointed from the governing body of the two-year institutions of higher education located in the district where the main campus of the university is located.
- (4) The Chancellor of the Department of Postsecondary Education.
- (5) The Governor, who shall be *ex officio* President of the board.

Section 2. Appointment and Term of Office.

- (a) Except as otherwise provided in the State of Alabama Legislative Act No.2012-497, trustees shall be appointed by the Governor, subject to confirmation by the Senate, and shall hold office for a term of seven years and until their successors are appointed and qualified. Of the initial members appointed to the board, three members shall be appointed for terms of three years, three members shall be appointed for terms of five

years, and two members shall be appointed for terms of seven years. These initial trustees, appointed after the effective date of the legislative act, shall have immediate, interim authority to conduct such business as may be necessary to fulfill the intent of the act, without Senate confirmation, for not more than 12 months after appointment. No trustee may serve more than two terms of office, except that the initial trustees appointed may be appointed to one additional term regardless of the previous number of terms served.

- (b) After the initial appointments to the board, future members appointed to the board shall be appointed by the Governor from a list of three persons nominated by a nominating committee. The nominating committee shall consist of all of the following members:
 - (1) One member of the board as elected by the membership of the board.
 - (2) The presiding officer of the Athens State University Faculty Senate.
 - (3) The presiding officer of the Athens State University Staff Senate.
 - (4) One member of the Limestone County Legislative Delegation, as selected by the delegation.
 - (5) The President of the Athens State University Alumni Association, or his or her designee.
 - (6) The President of the Athens State University Foundation, or his or her designee.
 - (7) The president of the university shall serve as a nonvoting, ex officio member and chair of the committee
- (c) Any vacancy in the office of trustee occurring during a recess of the Legislature shall be filled by appointment of the Governor. The appointee shall hold office until the next session of the Legislature, at which time the appointment shall be confirmed by the Senate. If not confirmed by the Senate, another appointment shall be made by the Governor in like manner until an appointment is confirmed by the Senate. A trustee appointed by the Governor to fill a vacancy, by and with the consent of the Senate, shall hold office during the unexpired term.
- (d) Within 45 days of any vacancy on the board, the nominating committee shall select and forward to the Governor three names for consideration for appointment. If no recommendation is made by the nominating committee within 45 days after a vacancy, the Governor, by and with the advice and consent of the Senate, may appoint a qualified candidate to fill the vacancy.

Section 3. Ethics and Conflicts of Interest.

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a. Ethics

No trustee shall receive any pay or emolument, other than his or her actual expenses incurred in the discharge of his or her duties as a trustee.

No employee of the university, or any person related by blood or marriage to the president of the university, shall be eligible to serve on the board.

No member of the board, individually, as a partner, as a stockholder, a board member, or an officer of a corporate body, shall conduct any business transaction, directly or indirectly, with the university.

Per Legislative Act 2012-497, any person who violates these ethical constraints shall be removed from the board, and replaced for the unexpired portion of his or her term as allowed by law.

b. Conflicts of Interest

In addition to any other requirements by law, and to the extent allowed by law, trustees shall disclose any interests in any matter before the Board and shall not participate in any discussion or vote in any matter before the Board which shall concern any gain or benefit for the trustee, a member of the trustee's family, or any entity, public or private, in which the trustee may have an interest or be a member. After disclosure, trustees may be asked to leave the room for any discussion and voting on a matter before the board.

Section 4. Duties.

- (a) The functions of the Board of Trustees are legislative and not executive.

The board appoints and dismisses the President of the University and conducts periodic reviews of his/her performances; establishes the policies of the University to protect the assets of the University, including appropriate Board audits of strategic direction; advancement of academic and support programs; procurement and investment of capital; and expenditure of funds. The board shall develop roles and responsibilities to govern its own work. It shall be the duty of each Trustee to participate in all meetings.

- (b) The board may designate one or more depositories for school funds.

- (c) The board shall make or cause to be made to the Legislature, at the beginning of each regular session thereof, a full report of board transactions and the condition of the university, including an itemized account of all receipts and disbursements on account of the university by those charged with the administration of its finances.
- (d) No grant or gift, by will or otherwise, shall fail on account of any misnomer or informality when the intent of the grantor or donor can be determined; nor shall any default, malfeasance, or nonuser on the part of the trustees or other officers or agents of such corporation work a forfeiture of any of its rights, privileges, powers, or franchises.

Section 5. Removal of member of the Board

Request for Resignation. The board, upon a three-fourths ($\frac{3}{4}$) vote of the entire board, may request that a board member resign for cause, which could include, but is not limited to, the failure to attend board meetings or participate as a board member, the failure to meet any legal requirements for service on the board, the failure to abide by conflict of interest rules, or the violation of state ethics laws.

Removal by Legal Process. State laws concerning the removal of public officials, to the extent applicable to officers of Alabama's institutions of higher education, shall apply to the members of the board. For example, immediate removal on grounds of a felony criminal conviction is set forth at § 60 of the *Alabama Constitution* and § 36-9-2 of the *Code of Alabama*. Likewise, § 36-11-1, *et seq.* of the *Code of Alabama* sets out the procedure for impeachment of any state officer for the following causes: (a) willful neglect of duty, (b) corruption in office, (c) incompetency, (d) intemperance in the use of intoxicating liquors or narcotics to such an extent in view of the dignity of the office and importance of its duties as unfits the officer for the discharge of such duties, or (e) any offense involving moral turpitude while in office or committed under color thereof or connected therewith.

Removal by Governor. No member of the board, individually, as a partner, as a stockholder, a board member, or an officer of a corporate body, shall conduct any business transaction, directly or indirectly, with the University. Any person who violates this rule shall be immediately removed from the board, and replaced for the unexpired portion of his or her term by appointment of the Governor.

ARTICLE 3. Meetings of the Board.

Section 1. Regular Meetings

The board shall hold its regular annual meeting each year, on the first Monday in June, at the main campus of the University, unless the board in regular session determines to hold its meeting at some other time and place. Thereafter, the board shall hold quarterly meetings on the first Monday of each third month after the annual meeting, unless the board shall in regular session determine to hold its quarterly meeting at some other time and place.

Section 2. Special Meetings.

Special meetings of the board may be assembled by either of the two following methods:

- (a) A special meeting may be called by the Governor with a written notice to each trustee at least 10 days in advance of the meeting.
- (b) Upon the application in writing of any three members of the board, the Governor shall call a special meeting, naming the time and place, and causing notices to be issued in writing to the several members of the board. The Governor shall mail a written notice to each trustee at least 10 days in advance of the date of the meeting.

Committees or subcommittees of the board shall hold meetings at such times and on such dates as the board may provide. All meetings of the board shall be subject to and comply with all applicable provisions of state law.

Section 3. Quorum

Six members of the board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day until a quorum is present.

Section 4. Attendance

Members of the board must be present and in the room at any board meeting for the determination of a quorum and, if a quorum is present, for a vote to be taken on any matter put before the board for vote or approval unless otherwise allowed by law.

Section 5. Order of Business.

Each meeting shall be conducted under general parliamentary rules of procedure as may be adopted by the board. Voting on all matters coming before the board

or any of its committees shall be taken and recorded in the manner prescribed by the board and as allowed by law.

Section 6. Open Meetings and Executive Session.

All sessions of the Board of Trustees and its committees shall be governed by the Alabama Open Meetings Act, Section 36-25-1-11. All meetings of the board and its committees shall be open to the public with certain exceptions as defined by the Act. The Board of Trustees and its committees may go into executive session for any purpose and in any manner allowed by law.

ARTICLE 4: Officers and Organization of the Board.

Section 1. *Ex Officio* President.

The Governor shall serve as *ex officio* President of the board.

Section 2. Chair *pro tempore*.

The Chair *pro tempore* shall be a member of the board, shall preside at all meetings of the board (with the authority to vote), shall appoint members of all Committees (except for the Executive Committee), and shall designate the Chair of each Committee. The Chair *pro tempore* shall be chosen by election of the full board. The Board Chair *pro tempore* shall be an *ex officio* member of all Committees with the authority to vote. The Chair *pro tempore*, upon the authority of the board and in the name of the Board of Trustees of the University, may execute all notes, bonds, deeds, contracts, and other documents requiring the Seal. The Chair *pro tempore* shall submit the annual report of the Board of Trustees to the Governor. The Chair *pro tempore* of the board shall be considered the Spokesperson for the board. The Chair *pro tempore* of the board will have a term of office of two years and may not serve successive terms.

Section 3. Vice Chair *pro tempore*.

The Vice Chair *pro tempore* shall be a member of the Board and an *ex officio*, voting member of all committees of the Board. The Vice Chair *pro tempore* shall perform the duties and have the powers of the Chair *pro tempore* during the absence or disability of the Chair *pro tempore*. The Vice Chair *pro tempore* shall be chosen by election of the full board. The Vice Chair *pro tempore* of the Board will have a term of office of two years and may not serve successive terms.

Section 4. Secretary.

The Secretary of the board shall be appointed by the board upon recommendation of the President of the University, shall serve at the pleasure of the board, and shall not be a member thereof. Subject to the President of the University and the board, the Secretary shall keep the records and minutes of the proceedings of the board and the books and papers pertaining to the office. The Secretary to the board shall perform those duties as determined by the board and as set forth in these Bylaws.

Section 5. General Counsel.

The General Counsel shall be appointed upon the recommendation of the President of the University and approval of the board. The General Counsel shall attend meetings of the board and render such professional services as are required by it and the officers of the University. The General Counsel shall have authority to execute all legal documents including those required for purposes of litigation and/or court proceedings. The General Counsel may also serve as the Secretary of the Board at the discretion of the Board.

Section 6. Ineligibility. No member of the board shall be eligible for appointment as secretary or treasurer or to any paid employment at the University.

Section 7. Committees.

The Board may appoint committees and prescribe their duties and functions. The President of the University or a presidential designee shall be a non-voting member of all such committees. All committees shall keep a record of their proceedings and shall report to the board as required. The delegation of any authority of the board to any committee shall not operate to relieve the board or any member thereof of any responsibility imposed by law or the State Constitution. All resolutions and all committee reports offered which involve matters for record in the minutes shall be made in writing.

Executive Committee

The Executive Committee is composed of the Chair Pro Tempore of the Board of Trustees, the Vice Chair Pro Tempore of the Board of Trustees, and such other members as may be appointed by the Board of Trustees.

When the Board of Trustees is not in session, the Executive Committee is authorized and empowered (i) to perform any function that the Board could perform, when, in the opinion of the Executive Committee, such action is

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advisable before the next regularly scheduled meeting of the Board of Trustees, or (ii) to perform any function delegated to it by the Board or by statute. Notwithstanding the foregoing, the Executive Committee is not authorized to (i) amend these Bylaws or the Board's Rules of Procedure, (ii) appoint or remove board officers or the President of the University, (iii) modify or repeal any action of the Board, (iv) set or change meetings of the Board, or (v) approve a contract, agreement or action relating to capital improvements of the University (except for maintenance, repairs, and maintaining existing facilities).

A review of all actions of the Executive Committee since the last meeting of the Board of Trustees shall be a regular order of business at each meeting of the Board of Trustees.

A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business.

The Executive Committee shall meet as needed. A meeting of the Executive Committee may be called by the Chair Pro Tempore, the Vice Chair Pro Tempore, or by action of the Board of Trustees.

The President of the University and all members of the Board of Trustees shall be provided direct advance notice of all meetings of the Executive Committee by the issuance of an e-mail (to their e-mail addresses used for regular University business), which notice shall be issued no less than the time required by law for public notice of the meetings of the Executive Committee. The President of the University and all members of the Board of Trustees shall be provided a written report of all actions taken at a meeting of the Executive Committee within five (5) business days of each meeting, in the same manner as notice is provided in advance of such meeting.

Section 8. Communications With the Board.

The President of the University shall be responsible for presenting official matters to the board. Official communications to board members shall be forwarded to the President of the University. If the matter requires board action, the President of the University shall ensure either the board or one of its Committees receives the item. If the matter does not require board action, the President of the University normally shall inform the appropriate Trustee(s) of its disposition. Except as permitted in these Bylaws, a member of the Board of Trustees shall not recommend any person for employment in any position in the University. Although no individual Board member has the authority to commit the board to a particular action, a member of the Board may propose any action at any time, subject to the procedural rules in Article III Section 5 of these Bylaws.

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ARTICLE 5. President of the University.

The Board shall, as often as necessary, elect a president of the University who shall serve at the pleasure of the board. The President shall be the board's sole administrative officer.

The President of the University is the principal executive officer of the University. The Provost of the University is the second in command to the President of the University. Whenever the President of the University is away from campus, or incapacitated for some defined period of time, the Provost assumes the responsibilities and authority of the Office until President of the University can resume normal duties.

The President of the University shall exercise such powers as are inherent in the position in promoting, supporting, or protecting the interests of the University and in managing and directing all of its affairs; may issue directives and executive orders not in contravention of existing board policies; shall be responsible for all business policies as heretofore enacted or modified or hereafter established subject to the general policies established by the board; shall instruct the proper administrative officers to prepare an annual budget which upon approval, shall be recommended to the board; shall be responsible for the preparation of the annual reports of the Board; shall exercise such other powers, duties, and responsibilities as are delegated or required by the board; shall attend all meetings of the Board of Trustees and be present for executive sessions when deemed appropriate by the Chair *pro tempore*.

In case of a vacancy in the office of the President of the University, the board at the time of the announcement that the President of the University is leaving shall elect immediately an Acting President for the interim period who shall exercise the functions of the President of the University as stated in these Bylaws while serving as Acting President of the University. In the event of the death or incapacity of the President of the University, the Provost will assume the responsibilities and authority of the Office until the Chair *pro tempore* of the Board of Trustees can convene the available members to take appropriate action to assure continuity in the affairs of the University until the board will make arrangements for an Acting President.

ARTICLE 6. Collective Authority and Action.

The authority of the Trustees is conferred upon them as a board, and they can bind the corporation and the University only by acting together as a board. No

individual member shall commit the board to any policy, declaration, or action without prior approval of the board.

ARTICLE 7. Amendments.

Subject to the provisions of applicable law, these by-laws may be amended or repealed by an affirmative vote of a majority of the board. Such amendments or notices of repeal are submitted in writing to each member. Amendments or notices of repeal shall not be voted upon in the same meeting in which they are introduced to allow for proper review by the University and General Counsel.

ARTICLE 8. Repeal.

All Bylaws, acts or resolutions, or any parts thereof, which are inconsistent with these Bylaws are hereby repealed.