

Virginia Highlands Community College and Virginia Highlands Community College Educational Foundation Operating Agreement

In accordance with the Virginia Community College System policy on college-related foundations, the following agreement between Virginia Highlands Community College (hereinafter referred to as the College) and the Virginia Highlands Community College Educational Foundation (hereinafter referred to as the Foundation), a nonprofit tax-exempt corporation organized under the laws of the Commonwealth of Virginia and Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. This agreement specifies the services and funds to be provided by the College in support of the Foundation's operations and the services and funds provided by the Foundation to support the mission of the College.

The College recognizes the Foundation was originally created in 1981 for the purpose of promoting, fostering and financially assisting Virginia Highlands Community College, and that it is primarily engaged in acting as an independent corporate fiduciary – soliciting, managing and investing funds for the benefit of the College and otherwise supporting the College.

It is mutually understood and agreed that the Foundation shall retain its status as a separate and independent organization. The Foundation recognizes that the College President and a representative from the College Board, both ex-officio non-voting members of the Foundation Board, will convey the College's needs, priorities and opinions on any matter that relates directly or indirectly to the College. The Foundation shall at all times conduct itself in such a manner as to preserve its tax-exempt status under applicable laws and regulations.

The College acknowledges that certain of its employees may also serve as ex-officio non-voting members of the Foundation Board, and in such capacity are obliged to perform the duties of such positions subject to the direction and control of the Foundation, and not subject to the direction and control of the College. The function of the Foundation will be organizationally placed in the Institutional Advancement Division of the College and the Vice President of Institutional Advancement will serve as the Executive Director of the Foundation.

Because the College is the Foundation's sole beneficiary and the Foundation's primary mission is to foster and promote the growth, progress and general welfare of the College and the Virginia Community College System, conflicts of interest for certain College officials (i.e. employees, board members) who serve as ex-officio non-voting board members of the Foundation are expected to occur only in rare and unusual circumstances. In cases of apparent or real conflicts of interest, any conflict between the College and the Foundation shall be resolved solely by the independent officers and board members of the Foundation who are not involved in the conflict situation. College officials serving as ex-officio members of the Foundation may provide formal advice and counsel to the independent Foundation representatives, but they shall not make decisions on such matters.

The Foundation and the College are desirous of assuring a continuing cooperative relationship to ensure that the people of the College's service region are presented with an integrated and consistent fund-raising plan for the College.

The Foundation will solicit and accept gifts for the benefit of the College or for educational support activities that may be conducted by the College. The Foundation agrees that it will receive, hold, invest, manage, use, dispose of, and administer its property and assets according to its stated policies. All gifts, donations, bequests, private endowments, and grants will be used in accordance with the wishes of the donors and as intended to benefit the College.

The Foundation will make every effort to maintain an identity separate from that of the College while, at the same time, work only to serve the interests of the College. All promotional materials produced by and for the Foundation will be clearly identified as such. The Foundation's Executive Director will oversee the coordination of Foundation activities with the College.

The Foundation will provide fundraising management, account management, sponsored programs procurement, legislative outreach, community development, and public relations/marketing services for the College. The Foundation and the College agree to work closely together to adopt and pursue strategies designed to promote efficiency and to maximize effective contacts with potential benefactors and to eliminate duplications of effort and expense in fundraising activities.

It is understood and agreed that the Foundation (including its officers and employees/agents, if any) shall act solely in the capacity of an independent contractor and not as an agent for the College, excepting only at the express written request of the President of the College.

The College agrees to extend eligibility to the Foundation to utilize College facilities, programs, and services, subject to availability and any established policy and/or procedure applicable to such facility, program or service. While it expects its property to be used with care, the Foundation agrees that the College and its employees shall not be liable for loss or damage to the Foundation's property on College property.

In consideration of the Foundation's contributions and services to the College, the College agrees to provide support to the Foundation through the Institutional Advancement Division of the College. The College agrees to provide office space, computer information systems support, public relations assistance, visual communication expertise, budgetary support, and equipment/supplies (i.e. computers, telephones, copiers/printers, reasonable office supplies, stationary, etc.) at no cost to the Foundation. The College will also assign various College employees (on a full or part-time basis) to support the efforts of the Foundation, primarily through the College's Institutional Advancement Division. These staff include, for example, the Vice President of Institutional Advancement (who will serve as the Executive Director of the Foundation), a financial specialist, a development specialist, a sponsored programs coordinator, a coordinator of public relations & marketing, and a media specialist.

In consideration for the support outlined above, the Foundation agrees to provide discretionary program support to the College in an amount to be determined jointly by the Foundation and the College, during the annual budget process. The College President will determine where, in the best interest of the College, the funds will be used and provide to the Foundation a report on the use of these funds at the first board meeting of each fiscal year. The College and Foundation may also determine that instead of general discretionary support, they may choose to collaboratively work on Foundation support of projects and initiatives on a case-by-case basis throughout each fiscal year.

With the exception of certain confidential donor records, the College President shall, upon reasonable notice given, have full access to the records of the Foundation. The President may designate additional persons (i.e. the College chief financial officer) to have similar access. The Foundation agrees generally to hold open its books for general public inspection, again upon reasonable notice, with the exception of information related to specific donors.

The Foundation will provide the College with a copy of its annual financial statements audited by an accredited or independent public accounting firm selected by the Foundation.

The term of this agreement shall be September 1, 2019 through August 31, 2022. In the event either party believes that the other is not honoring the terms and conditions of this Agreement, then it shall immediately notify the other so that all conflicts, disputes and misunderstandings can be promptly resolved. Beyond the initial term, this Agreement is automatically renewable annually unless either the College or the Foundation give notice within sixty (60) days of the close of the College's fiscal year that a necessity exists for review or amendment. In any event, the Agreement is subject to formal review by the parties at any three-year interval following the last date of review or change, or if substantial changes in College or Foundation leadership occurs.

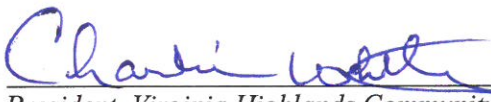
Neither the Foundation nor the College shall have any liability for the obligations, acts or omissions of the other party. The Foundation shall not accept any gift, donation or grant outside the provisions of the gift acceptance policy with creates future liability for the College, without advanced written approval by the College Board.

In the event that the Foundation ceases to operate for any reason, all of the Foundation's assets shall accrue to the College for its exclusive purposes as described in the Foundation's bylaws.

This Agreement supersedes all other prior written or oral agreements relating to this subject matter and may not be altered or amended except in writing and executed by both parties.

This Agreement may be terminated by the College or the Foundation upon written notice at least sixty (60) days in advance.

Date: 9/12/19 
Chair, Virginia Highlands Community College Educational Foundation

Date: 9.12.19 
President, Virginia Highlands Community College