

**DURHAM COLLEGE OF APPLIED ARTS AND TECHNOLOGY
BY-LAW NO. 11-001**

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BY-LAW NO. 11-001

A by-law relating generally to conduct of the affairs of the Board of Governors of The Durham College of Applied Arts and Technology pursuant to Regulation 34/03 under the Ontario Colleges of Applied Arts and Technology Act, 2002 (the “Act”).

IT IS HEREBY ENACTED as a by-law of Durham College of Applied Arts and Technology (hereinafter referred to as the “College”) as follows:

1. INTERPRETATION

In this by-law and in all other by-laws of the College hereafter passed, unless the context otherwise requires words importing the singular number or the masculine gender, shall include the plural number or the feminine gender, as the case may be, and vice versa.

The Durham College of Applied Arts and Technology may also be known as Durham College.

In this by-law, “Minister” shall mean the Minister of Advanced Education and Skills Development (of the Government of Ontario from time to time or such other Minister of the Government of Ontario whose responsibilities include the administration of the Act).

2. HEAD OFFICE

The head office of the College shall be in the City of Oshawa in the Regional Municipality of Durham in the Province of Ontario and at such place therein as the Governors may determine.

3. CORPORATE SEAL

The corporate seal of the College shall be in the form approved by the Board of Governors.

4. GOVERNANCE

4.1 The affairs of the College shall be managed by a Board of Governors (hereinafter called the “Board”) which shall consist of such persons as are elected or appointed as Governors (hereinafter called the “Governors”) in accordance with the provisions of the Act, the Regulations of the Act, the “Minister’s Binding Policy Directives” and in accordance with this by-law.

4.2 The Board shall include an even number of not less than twelve (12) and not more than twenty (20) external members appointed as set out in Regulation to the Act.

- 4.3 As the total number of members to be appointed is twelve (12), four (4) of the members shall be appointed by the Lieutenant Governor in Council. The remaining members of the Board to be appointed as set out in Regulation to the Act, shall be appointed by the members of the Board holding office at the time of the appointment. A member of the Board shall not participate in a vote of the Board relating to a renewal or extension of his or her appointment.
 - 4.4 The President of the College, by virtue of office, shall be a voting member of the Board and all Board Committees.
 - 4.5 The terms “academic staff”, “administrative staff”, “support staff”, and “student” shall have the meanings set out in By-Law No. 4, a by-law to regulate the election of Internal Governors (hereinafter called “By-Law No. 4”).
 - 4.6 One (1) member of the College’s academic staff (faculty member), duly elected by the members of the academic staff, in accordance with By-Law No. 4, shall be a voting member of the Board for the term prescribed by the Board, and identified as an internal member.
 - 4.7 One (1) member of the College’s administrative staff, duly elected by the members of the administrative staff, in accordance with By-Law No. 4, shall be a voting member of the Board for the term prescribed by the Board, and identified as an internal member.
 - 4.8 One (1) member of the College’s support staff, duly elected by the members of the support staff, in accordance with By-Law No. 4, shall be a voting member of the Board for the term prescribed by the Board, and identified as an internal member.
 - 4.9 One (1) student, duly elected by the students, in accordance with By-Law No. 4, shall be a voting member of the Board, and identified as an internal member.
 - 4.10 An elected internal governor ceases to be a member of the Board if they are no longer a member of the constituency by which they were elected.
5. TERM OF OFFICE
- 5.1 A member of the Board appointed or elected, other than a member elected by the students, shall hold office for a term not to exceed three (3) years and shall not serve for more than six (6) years consecutively but is eligible for reappointment or re-election, as the case may be, after two (2) years absence from the Board for successive terms not to exceed six (6) years in total.

- 5.2 A member of the Board, other than a member elected by the students, seeking reappointment or re-election for a second term shall be subject to the Board's reappointment process or re-election by the relevant constituency group whatever the case may be.
- 5.3 The term of office for a Student Governor shall be one (1) year, subject to re-election for a second year.
- 5.4 The term of appointment will coincide with the academic year, defined as September 1 of each year through to August 31 of the following year.

6. VACANCIES

- 6.1 Where a Governor vacancy occurs among the members appointed under Section 4.3, the vacancy shall be filled as prescribed by Regulation of the Act.
- 6.2 Where a Governor vacancy occurs among the members elected under section 4.5 to 4.8, the vacancy shall be filled as outlined in By-Law No. 4.
- 6.3 The term of a Governor appointed under 6.1 or elected under Section 6.2 shall:
 - a) commence on the date of the appointment or election, as the case may be;
 - b) subject to clause (c), be the same length as a member appointed or elected; and
 - c) terminate on August 31 of the year in which the term ends.
- 6.4 It is the preference of the Board that any vacancy occurring mid-year remain vacant, with all appointments to start on September 1 of each year.

7. BOARD OFFICERS

The Board shall have the following Board Officers:

- a) Chair;
- b) Vice-Chair;
- c) President;
- d) Board Secretary; and
- e) Treasurer.

8. ELECTION OF CHAIR AND VICE-CHAIR

8.1 No later than the regular meeting of the Board in June of each year, the Board shall elect a Chair and Vice-Chair from its external members for the following year. The Board Secretary, as defined in Section 14, shall perform the duties of Chief Returning Officer and as such shall be responsible for the nominations process and for conducting the election. Following the election, the Chair and Vice-Chair will assume their responsibilities on the 1st of July each year. If the Board fails to appoint a Chair and Vice-Chair by July 1, the incumbents for whom no replacements have been appointed shall continue in office until their successors are appointed except in the case of a Chair or Vice-Chair whose term as governor has expired.

The Chair and Vice-Chair are eligible for re-election.

If the Office of the Chair or Vice-Chair shall be or become vacant for any reason, the Board may appoint a Governor from the external members to fill such vacancy.

9. APPOINTMENT OF OFFICERS

9.1 The Board shall appoint a Board Secretary and Treasurer, who need not be Governors.

9.2 The Board may appoint such other Board Officers and establish the duties of each of them at the time of appointment.

10. POWERS OF THE BOARD

10.1 The Board shall establish the overall goals, objectives and strategic direction of the College and shall, through its oversight and stewardship, ensure that the College operates efficiently and effectively.

10.2 The Board shall oversee the affairs of the College in all things and make or cause to be made for the College in its name any kind of contract which the College may lawfully enter into and, save as hereinafter provided, generally exercise all such powers and do all such other acts and things as the College is authorized to exercise and do, as provided by the Act, Regulations of the Act, the Minister's Binding Policy Directives and any other applicable laws or regulations.

10.3 The Board may,

- a) acquire by purchase, lease, deed, contract, grant or devise; or
- b) sell, grant, convey, mortgage, pledge, lease or otherwise dispose of, any real property or any part thereof, or any interest therein, without the written approval of the Minister.
- c) use of the proceeds from the sale or encumbrance of real property acquired with provincial funds with the approval of the Minister.

11. DUTIES OF THE CHAIR

Subject always to the direction of the Board or the Executive Committee, where appropriate, the Chair shall:

- a) when present, preside at all meetings of the Board;
- b) together with the Board Secretary or other Board Officers appointed for the purpose, sign all by-laws of the College;
- c) sign such contracts, documents or instruments in writing as require his or her signature;
- d) on behalf of the Board, have primary supervisory responsibility for the President, together with an obligation to report to the Board and/or Executive Committee;
- e) have such other powers and duties as may from time to time be assigned by the Board or as are incident to his or her office;
- f) act generally as spokesperson for the Board.

12. DUTIES OF THE VICE-CHAIR

In the absence, inability or refusal of the Chair to act, the Vice-Chair shall perform all the duties and have all the powers of the Chair. If a Vice-Chair (or such other Governor as the Board may from time to time appoint for the purpose) performs any such duty or exercises, any such power, the absence, inability or refusal of the Chair to act shall be presumed with reference thereto.

13. PRESIDENT

- 13.1 The Board shall appoint, suspend or remove the President of the College. The Board shall establish the terms of employment of the President.
- 13.2 The President has the power to appoint, classify, promote, suspend, transfer, reclassify or remove any employee, with the exception of those individuals with a direct reporting relationship to the President.
- 13.3 The President will recommend to the Board, appointments, classifications, promotions, suspensions, transfers, reclassification or removal of individuals with a direct reporting relationship to the President.
- 13.4 The President shall conform to all Board policies and all lawful direction given by the Board or the Board Chair.
- 13.5 The President shall ensure that all academic, administrative and employment related policies of the College support and fulfill the policies of the Board.
- 13.6 The President shall give to the Board all information requested regarding the affairs of the College, such information might be subject to the regulations of the *Freedom of Information and Protection of Privacy Act*.

14. BOARD SECRETARY

The Board Secretary shall:

- 14.1 be ex-officio clerk of the Board;
- 14.2 attend all meetings of the Board, including committees, and record, or cause to be recorded, all facts and minutes of all proceedings in the books kept for that purpose;
- 14.3 give, or cause to be given, all notices required to be given to Governors and to the public;
- 14.4 be the custodian of the corporate seal of the College and of all books, papers, records, correspondence, contracts and other documents belonging to the College and relating to Board proceedings, which shall be delivered up subject to the *Freedom of Information and Protection and Privacy Act*;

14.5 perform, or cause to be performed, the duties of a Chief Returning Officer for the election of the Chair and Vice-Chair of the Board in accordance with Section 8 herein and for the election of Internal Board Members;

14.6 perform such other duties as may be determined from time to time by the Board.

15. TREASURER

The Treasurer, who shall be the College's Chief Financial Officer shall:

15.1 keep full and accurate accounts of all monies or bank accounts;

15.2 disburse the funds of the College, taking proper vouchers therefore and shall render to the Board at the regular meetings thereof, or whenever required by him or her, an account of all transactions and of the financial position of the College;

15.3 co-operate with the auditors of the College during any audit of the accounts of the College;

15.4 perform such other duties as may be determined by the President, on behalf of the Board.

16. INDEMNITIES TO GOVERNORS AND BOARD OFFICERS

All Governors of the College, Board Officers, and their heirs, executors and administrators, and estates, respectively, shall be indemnified and saved harmless, out of the funds of the College from and against:

16.1 all costs, charges and expenses whatsoever which Governors or Board Officers sustain or incur in or about any action, suit or proceeding which is brought, commenced or prosecuted against them for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by them in or about the execution of the duties of their office, except such costs, charges or expenses as are occasioned by their own willful neglect or default;

16.2 all other costs, charges and expenses which are sustained or incurred in or about, or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by their own willful neglect or default;

16.3 nothing in the by-law shall limit the right of any person entitled to indemnity to claim indemnity apart from the provision of this by-law to the extent permitted by the Act or law.

17. PROTECTION OF GOVERNORS AND BOARD OFFICERS

No Governor or Board Officer shall be liable for:

- a) the acts, receipts, neglects or defaults of any other Governor, Board Officer or employee of the College;
- b) any loss, damage or expense happening to the College through the insufficiency or deficiency of title to any property acquired by the College or for or on behalf of the College;
- c) the insufficiency or deficiency of any security in or upon which any money of the College shall be invested;
- d) any loss or damage arising from the bankruptcy, insolvency or tortious act of any person including any person with whom any money, securities or other assets belonging to the College;
- e) any loss, conversion, misapplication or misappropriation of, or any damage resulting from any dealings with, any money, securities or other assets belonging to the College;
- f) any other loss, damage or misfortune whatever which may happen in the execution of their duties of their office;

unless the same shall happen by or through the Governors' or Board Officers' own willful neglect or default.

18. DELEGATION OF DUTIES OF BOARD OFFICERS

Except where provision is specifically made elsewhere in this By-law, in the absence or inability or refusal of any Board Officer to act, or for any other reason that the Governors may deem sufficient, the Governors may delegate all or any of the powers and responsibilities of such Board Officer to any other Board Officer or to any Governor for the time being.

19. REMOVAL OF A BOARD MEMBER

19.1 Grounds for Removal

The Board may remove a Governor, other than the President, or members of the Board appointed by the Lieutenant Governor in Council, from the Board before the expiration of his or her term if:

- a) the Governor has failed to maintain the confidentiality of any and all information, discussions or proceedings at in-camera meetings of the Board or its committees;
- b) the Governor has failed to comply with the provisions of Section 25 – Conflict of Interest;

- c) the Governor has not acted with honesty, in good faith and in the best interests of the College;
- d) the Governor has knowingly failed to comply with the Act, Regulations of the Act, or the Minister's Binding Policy Directives;
- e) the Governor is absent for three (3) consecutive meetings or for more than 50 percent of the regular meetings in a twelve (12) month period, without permission from the Board;
- f) the Governor has neglected or refused to participate on Board committees or to contribute to effective discussion and decision-making at the Board;
- g) the Governor is a student Governor and is no longer in good academic Standing or is not actively participating in a program of instruction as defined in By-Law No. 4, as the Board of Governors prioritizes academic success over Board participation and values the perspective of a student who is actively participating in a program of instruction;
- h) the Governor has committed one of the following grounds of misconduct that in consequence would, if such Governor were to continue as a member of the Board, adversely affect the image or operations of the Board or of the College by means of:
 - i) harassment (including activities that would constitute harassment under legislation or College policy);
 - ii) violence (including activities that would constitute violence under legislation or College policy);
 - iii) conviction of a criminal offence;
 - iv) conduct unbecoming of a member of the Board, including but not limited to improper use of authority or position, improper use of privileged or confidential information, conduct that is deemed to be detrimental to or generally contrary to the mandate, interest and welfare of the College;
 - v) discrimination as defined under the Ontario Human Rights Code (including activities that would constitute discrimination under other legislation or College policy).

19.2 With respect to any member of the Board appointed by the Lieutenant Governor in Council, if the board of governors believes that there exist reasons justifying the removal of the member from the Board, the Board may set those reasons out in a report to the Minister for referral to the Lieutenant Governor in Council.

19.3 Procedure for Removal

a) External Governors Appointed by the Board of Governors

Prior to the Board of Governors voting to remove a Governor appointed directly by the Durham College Board, the Chair or Vice-Chair shall discuss the matter with such Governor to explain why the removal is being considered and to seek a satisfactory explanation or solution to the alleged grounds for removal. If the discussions do not result in a satisfactory explanation or solution, the matter shall be brought to the Board at a meeting which is closed to the public. The notice for such meeting shall specify the intention to pass a resolution removing such Governor and the grounds for removal. Such Governor shall be given an opportunity to respond to the grounds for removal by addressing the Board of Governors at such meeting, but shall not be present during discussion and shall have no right to vote on any resolution. A resolution to remove a Governor shall not be effective unless it is passed by two-thirds (2/3) of the votes cast at a meeting of the Board which has been convened and conducted in accordance with this provision. Such Governor shall be clearly notified in writing by the Chair of the Board and the President of the decision of the Board of Governors. If the Board of Governors removes the Governor the Chair of the Board and the President shall provide a written attestation that the removal process was carried out in accordance with this by-law.

b) Student Governor

Upon notification that the student governor is no longer in good academic standing or is not actively participating in a program of instruction, as provided for in By-Law No. 4, the following actions shall be taken. The purpose of removal is to allow the student to focus time and effort on regaining good academic standing and to allow the Board to benefit from the perspective of a student governor who is actively participating in a program of instruction:

- i. the Chair of the Board and the President shall notify the student Governor in writing of the intention to remove them from the Board.
- ii. The student shall be invited to provide input to the Chair and President; should the student Governor not accept this invitation within ten (10) business days, this opportunity will be forfeit.
- iii. The Chair and President shall consider the input received by the student Governor and shall notify the student Governor of their recommendation.
- iv. Should the recommendation be to remove the student

Governor, in a meeting closed to the public, the Board of Governors shall pass a resolution to remove the student governor, citing the reason.

19.4 Appeal of Removal

Any member, other than members of the Board appointed by the Lieutenant Governor in Council, who is removed as a Governor from the Board of Governors, may apply to the Minister to review the decision to remove the member from the Board of Governors. The review shall be subject to the following: The review shall be limited to determining whether the reasons for the removal and the procedure followed were in compliance with this by-law.

20. REMUNERATION OF GOVERNORS

The Governors of the College shall serve without remuneration, and no Governor shall directly or indirectly receive any profit from his or her position as such. However, a Governor may be paid reasonable expenses incurred by him or her in the performance of Board duties.

21. RULES OF ORDER

The conduct of meetings of the Board and its Committees shall be in accordance with "Robert's Rules of Order" except where said rules conflict with the Act, the Regulations of the Act, a Minister's Binding Policy Directive or a by-law of the College.

22. BOARD MEETINGS

22.1 Meetings of the Board shall be held in two parts: Public and In-Camera.

22.2 All Board meetings shall be considered open to all members of the public. However, the following specific matters shall be considered as matters to be discussed at in-camera sessions of the Board where only Board members and invited guests are permitted to attend:

- a) Identification of a potential or perceived conflict of interest;
- b) Consideration of sanctions against and removal of a Governor;
- c) Student-specific issues;
- d) Matters relating to an individual board member or a prospective board member;
- e) Individual employee matters;
- f) Donor-specific issues;

- g) Any other matters where personal information about an individual will or may be revealed;
- h) Human resource and labour relations matters including those pertaining to collective bargaining or terms of employment, including negotiations or potential negotiations;
- i) Litigation or potential litigation including administrative tribunal matters;
- j) Receipt of advice that is subject to solicitor-client privilege including communications necessary for that purpose;
- k) The security of property of the College;
- l) Contract matters including negotiations or disputes;
- m) The acquisition, disposition, lease, exchange or expropriation of, or improvements to real or personal property, if the Board considers that disclosure might reasonably be expected to harm the interest of the College;
- n) Reports from the Board's committees where those Committee meetings are closed to the public;
- o) Board, committee and governor self-evaluation;
- p) Other matters that, in the opinion of the majority of governors, the disclosure of which might be prejudicial to an individual or to the best interests of the College; and
- q) Consideration of whether an item is to be discussed in camera.

Decisions taken at an in-camera meeting may, in the discretion of the Board, be reported at a subsequent general Board meeting.

22. 3 Governors may consider or transact any business, either special or general, at any meeting of the Board.

23. FREQUENCY AND LOCATION OF MEETINGS

- 23.1 The Board shall meet at least six (6) times per year, unless otherwise determined by the Board.

The Board shall establish and cause to be provided to each Governor a schedule of meeting days and times for each Board year.

Meetings may be formally called by the Chair or Vice-Chair or by the President on the direction of the Chair or Vice-Chair.

Except as otherwise required by law, the Board may hold its meetings at such place or places as it may determine.

23.2 Meetings by Electronic Means

If all of the Governors present at or participating in a meeting consent, a meeting of the Board may be held by means of telephone, electronic or other such communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously and a Governor participating in such meeting by such means is deemed to be present at that meeting. Any such consent shall be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the Board held while a Governor holds office. The Board Secretary shall ensure each particular meeting is handled in a secure fashion. Quorum shall be established by a verbal roll call conducted by the Board Secretary at the beginning of each meeting. Each vote cast by a Governor participating by telephone, electronically or by other communication facilities shall be recorded in the minutes by the Board Secretary.

A meeting of the Board or voting on a particular matter shall not be permitted by email, as this method of communication is not simultaneous or instantaneous. In instances requiring such immediate attention that it is not practical to convene a special meeting of the Board, the Executive Committee can act on behalf of the Board.

24. NOTICE OF BOARD MEETINGS

- 24.1 Notice of meetings of the Board shall be given to members of the Board as set out below and to the public in such a manner as may be determined by the Board. A list of meeting dates shall be made available through the College website.
- 24.2 Notice of all meetings of the Board shall be delivered or transmitted to each Governor or other person(s) entitled to notice of such meeting. However, no formal notice of any such meeting shall be necessary if all the Governors are present or if those absent waive notice or otherwise signify in writing their consent to the meeting being held in their absence. Such waiver of notice or consent may be given either before or after the meeting. Notice of such meetings shall be mailed, delivered, telephoned, sent by facsimile transmission or emailed to each Governor not less than one (1) day prior to the meeting taking place. The Statutory Declaration of the President or Chair that notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice.
- 24.3 No notice of meeting is required to be given to any Governor in respect of a meeting contained in a schedule of meetings which has been established in accordance with Section 23 – Frequency and Location of Meetings.

24.4 No error or omission in the giving of such notice for a meeting of Governors shall invalidate such meeting or invalidate or make void any proceeding taken or had at such meeting, and any Governor may at any time waive notice of such meeting and may ratify and approve of any or all proceedings taken or had thereat.

25 CONFLICT OF INTEREST

25.1 A conflict of interest arises when a Governor's private or personal interest may be in conflict with his or her official duties and responsibilities as a member of the Board. This could arise from an actual, potential or perceived conflict of interest of a financial or other nature.

25.2 At the beginning of every board meeting, the Chair of the Board is to ask and have recorded in the minutes whether any member has a conflict to declare in respect to any agenda item.

a) When the agenda item arises in the open portion of the Board meeting, the member(s) with an actual conflict of interest may remain in the room for the duration of the discussion, but shall not participate in the discussion or vote on this item. The minutes are to record that the member(s) in conflict of interest remained in the room for the discussion and did not vote on this item. Should the matter occur in the in-camera portion of a meeting, the Governor should withdraw while the matter is being discussed or voted on and the minutes should reflect this.

b) When the conflict of interest is perceived or potential, the Board will determine whether the member or members remain for the discussion and vote on agenda items. The minutes should reflect this action.

25.3 A Governor is to declare a conflict of interest at the earliest opportunity and, at the same time, should declare the general nature of the conflict. Where a conflict of interest is declared prior to a board meeting, the declaration is to be made to the Chair of the Board and the Board is to be informed.

25.4 Where a Governor is unsure whether he or she is in conflict, the Governor is to raise the perceived potential conflict with the Board at the earliest opportunity, and the Board is to determine by majority vote whether or not a conflict of interest exists. The said Governor must refrain from voting on whether or not a conflict of interest exists.

- 25.5 Where a conflict of interest is discovered after consideration of a matter, it is to be declared to the Board and appropriately recorded at the first opportunity. If the Board determines that involvement of said Governor influenced the decision of the matter, the Board is to re-examine the matter and may rescind, reconsider or confirm its decision.
- 25.6 Any Governor who perceives another member to be in conflict of interest in a matter under consideration is to raise this concern with the Chair of the Board at the earliest opportunity. The Chair, in turn, is to discuss the matter with the Governor who is perceived to be in conflict and, as appropriate, to hold further discussion with the reporting Governor. If the discussions do not lead to a resolution, the matter is to be brought to the Board and the Board is to determine by majority vote whether or not a conflict of interest exists. The member perceived to be in conflict is to refrain from voting.
- 25.7 Where there has been a failure on the part of a Governor to comply with this framework (as set out in the Minister's Binding Policy Directive, Governance and Accountability – Conflict of Interest), unless the failure is the result of a bona fide error in judgment, the Board is to:
- a) issue a verbal reprimand; or
 - b) issue a written reprimand; and/or
 - c) request that a Governor resign; and/or
 - d) remove the Governor through processes established in Section 19 herein.
- 25.8 All internal staff governors have a conflict of interest in respect to agenda items relating to the President's evaluation or performance review, compensation, perquisites and/or benefits. It should be noted, however, that this provision does not prevent the Chair from asking for their input as part of the general information-gathering process in preparing the President's evaluation.

26 QUORUM – BOARD MEETINGS

- 26.1 A quorum for a Board meeting is equal to the majority of the number of Board members that is required under the Regulation of the Act, plus one.
- 26.2 When a Governor declares a conflict of interest, the quorum shall be a majority of the remaining members.

- 26.3 Governors who participate in Board meetings by electronic means, such as telephone or video conferencing, shall be deemed to be present and shall count towards quorum.

27 VOTING

- 27.1 Motions arising at any meeting of the Board shall be decided by a majority vote. The vote shall be taken by a show of hands, unless a Governor requests a recorded vote. Meetings by electronic means will require a recorded vote. The Board Secretary shall record the vote. Only Governors make motions and vote. Voting by proxy is not permissible.
- 27.2 A declaration by the Chair that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact without proof of the number or proportion of votes recorded in favour or against such resolution.

28 RECONSIDERATION

After any question has been decided, any Member who voted in the majority may move for a reconsideration of the question, but no discussion on the main question shall be allowed unless the matter is reconsidered and there shall be no reconsideration unless:

- 28.1 Notice of the Motion to reconsider is given either at a meeting of the Board or in the same manner as notice of a regular meeting of the Board is given, and such notice to reconsider is in any event given at least two days before the meeting at which the motion to reconsider is to be presented; and
- 28.2 Two-thirds (2/3) of the Members present vote in favour of such reconsideration.

29 DELEGATIONS TO THE BOARD

- 29.1 Requests for an audience with the Board stating the nature of the delegation shall be made in writing to the Board Secretary, at least fifteen (15) days prior to the next regular meeting of the Board. Upon receipt of the request, the Board Secretary shall confer with the President and Chair of the Board to determine whether or not the matter can be properly heard by the Board, or whether the matter should properly proceed by other means.
- 29.2 Exceptions to the timeline may be made at the discretion of the Board Chair, or designate.
- 29.3 Delegations shall be heard at the next regular meeting of the Board, whenever possible.

- 29.4 Delegations of a confidential or sensitive nature involving students, staff or other identifiable individuals shall be heard during the in-camera portion of the meeting.
- 29.5 The Chair shall clarify the guidelines for hearing delegations as follows:
- a) Delegations presented shall only relate to matters for which the audience with the Board was requested.
 - b) Delegations shall be limited to ten (10) minutes. An additional ten (10) minutes may be allowed for questions of clarification by Board members.
 - c) The protection of privacy of individuals shall be respected in accordance with the *Freedom of Information and Protection of Privacy Act*.
 - d) Questions to the delegation by Board members shall be limited to points of clarification. The Board shall not enter into debate during the clarification period.
 - e) Board debate, if required, on matters raised by the delegation shall take place following the presentation, or at the discretion of the Chair and Board. If additional information is required, the Board may request that the issue be debated at a subsequent meeting.
 - f) The delegation will be informed of any public decision of the Board.

30 COMMITTEES – GENERAL

The Board may establish committees consisting of Governors and Officers for such purposes and with such powers as the Board approves. The Board may abolish or amend the purposes or powers of any existing Committee. The Board shall appoint the members of such Committees who shall hold office at the pleasure of the Board. The Chair and President shall be voting members on all such Committees by virtue of their office, and the Board Secretary shall be a non-voting member on all Committees by virtue of his or her office unless otherwise provided for by by-Law.

- 30.1 The Board may fill any vacancies occurring on such Committees.
- 30.2 Minutes of the proceedings of any such Committee shall be kept in a book or books for that purpose, which shall always be open for inspection by any Governor.

- 30.3 The Board shall receive an information report outlining recommended actions, as well as the minutes from such Committees for approval at the next regular Board meeting following the meeting of a Committee.
- 30.4 Any such Committee so appointed may meet for the transaction of business, adjourn and, except as provided in this by-law or the resolution establishing the Committee, regulate its meetings as it thinks fit. Motions arising at any meeting of a Committee shall be decided by a majority of votes. In the case of an equality of votes, the chair of the meeting shall have a second or casting vote.
- 30.5 Section 25.0 Conflict of Interest applies to Committees.

31 QUORUM - COMMITTEES

- 31.1 A quorum for each Committee consists of a simple majority of the voting members (half plus one).
- 31.2 Only Governors listed as members of the Committee may make motions and vote at Committee meetings.
- 31.3 When a Governor declares a conflict of interest at a Committee meeting, the quorum shall be a majority of the remaining Governors.

32 EXECUTIVE COMMITTEE

32.1 Terms of Reference

There shall be an Executive Committee. Subject to the direction of the Board, the terms of reference of the Executive Committee are:

- a) To recommend to the Board the composition of a Presidential Search Committee, as required, to conduct a search and recommend the appointment of a President.
- b) To recommend the appointment and/or reappointment of a President, including the terms of employment of the President, to the Board, in-camera.
- c) To annually review the President's performance and report to the Board in-camera.
- d) To recommend the reappointment of the President and any change(s) to the terms of employment as required.
- e) To annually review and approve the salary changes for all staff reporting to the President and report thereon to the Board, in-camera, for informational purposes only.
- f) To review and approve College organizational changes and report thereon to the Board, for informational purposes only.

- g) To review and approve the expense accounts of the President.
- h) To review and approve the expense accounts of the members of the Board of Governors.
- i) To consider and recommend to the Board, the attendance of Board members at relevant, external educational functions.
- j) To annually conduct a formal review of the Board.
- k) To review all major legal actions, building plans and contractual arrangements and prepare recommendations for consideration by the Board.
- l) To consider matters and to direct action thereon, subject to Board approval at the next meeting of the Board.
- m) To act on behalf of the Board in any matter which may arise:
 - i) requiring such immediate attention that it is not practical to convene a special meeting of the Board; or
 - ii) during periods when a quorum of the Board cannot be obtained.
- n) To exercise the powers of the Board in respect of such matters as the Board may refer to it from time to time.

32.2 Membership

The Chair of the Board of Governors, who will also be the Chair of the Executive Committee;

The Vice-Chair of the Board of Governors, who will also be the Vice-Chair of the Executive Committee;

The Chairs of each of the other three Committees;

The President;

The Board Secretary (non-voting)

32.3 Meetings

Meetings shall be held as established by the schedule referred to in Section 23 or at the request of the Chair of the Executive Committee. All meetings will be held in-camera.

33. AUDIT AND FINANCE COMMITTEE

33.1 Terms of Reference

There shall be an Audit and Finance Committee. Subject to the direction of the Board, the terms of reference of the Audit and Finance Committee are:

- a) To oversee College financial practices, reporting processes, systems of internal control, and review appropriateness of existing College accounting policies; disclosures and reserves.
- b) To oversee the audit process, including recommendation of the independent auditor, reviewing of audit fees, audit scope of work, annual audited financial statements and management letter.
- c) To review the annual operating and capital budgets and recommend approval to the Board.
- d) To monitor risk through the annual risk register and assessment of long-term capital projects.
- e) To review proposed private-public partnerships and regular progress reports of major projects.
- f) To investigate any financial matter brought to its attention by the Board Chair or President.
- g) To receive the annual Durham College investment report.
- h) To perform such other oversight functions as may be assigned to the Committee by the Board.

The Committee shall fulfill its responsibilities consistent with Board and institutional policy, financial literacy and the Canadian public sector accounting standards for government not-for-profit organizations (PSAB).

33.2 Membership

The Chair of the Board;

A minimum of four (4) other Governors appointed by the Board;

The President;

The Treasurer (non-voting);

The Board Secretary (non-voting)

The Chair and Vice-Chair of the Committee will be appointed by the Board.

At least one voting member of the Committee shall have accounting or related financial experience.

33.3 Meetings

Meetings shall be held a minimum of three (3) times per year, as established by the schedule referred to in Section 23 or at the request of the Chair of the Board, the Chair of the Committee, or at the direction of the Board . All meetings will be held in-camera.

34. NOMINATING COMMITTEE

34.1 Terms of Reference

There shall be a Nominating Committee. Subject to the direction of the Board, the terms of reference of the Nominating Committee are:

- a) To recommend to the Board the composition of committees of the Board.
- b) To conduct the election of a Chair and Vice-Chair of the Board and make recommendations to the Board on or before the final meeting of the Board in each year.
- c) To solicit and review nominations to fill external Governor vacancies and to make recommendations to the Board regarding potential external candidates, based on current legislation, policy and Board by-laws. When making its recommendations and nominations, the Committee shall consider the skills and expertise required by the Board of Governors and its Committees at that time. To oversee the reappointment process for external Governors and recommend reappointments to the Board.
- d) To oversee the implementation of the procedures set out in By-law No. 4, which regulates the election of internal governors.

34.2 Membership

The Chair of the Board of Governors;

A minimum of four (4) other governors appointed by the Board;

The President;

The Board Secretary (non-voting)

The Chair and Vice-Chair of the Committee will be appointed by the Board.

34.3 Meetings

Meetings shall be held a minimum of once (1) per year, as established by the schedule referred to in Section 23 or at the request of the Chair of the Board, the Chair of the Committee, or at the direction of the Board. All meetings will be held in-camera.

35. GOVERNANCE REVIEW COMMITTEE

35.1 Terms of Reference

There shall be a Governance Review Committee. Subject to the direction of the Board, the terms of reference of the Governance Review Committee are:

- a) To review current governance practice to ensure effective operation of the Board of Governors;
- b) To confirm how the current governance policy structure is serving the College and explore ways to build on these strengths;
- c) To assist the Board of Governors in fulfilling its governance oversight responsibilities;
- d) To develop strategies to assist new governors to develop advanced governance knowledge;
- e) To develop an effective communication mechanism for the flow of information between Committees and the Board;
- f) To annually review the Durham College Board By-laws;
- g) To review Board policies pursuant to the established renewal schedule, or prior to the established date of renewal if changes are required to meet any new or amended legislative requirements.
- h) To receive post-election reports for internal governor elections.
- i) To annually review the board skills matrix.

35.2 Membership

The Chair of the Board;

A minimum of four (4) other governors appointed by the Board;

The President;

The Board Secretary (non-voting)

The Chair and Vice-Chair of the Committee will be appointed by the Board.

35.3 Meetings

Meetings shall be held a minimum of twice (2) per year, as established by the schedule referred to in Section 23 or at the request of the Chair of the Board, the Chair of the Committee, or at the direction of the Board.

All meetings will be held in public, unless an item of meets the requirements for an in-Camera meeting under sub-section 22.2, at which time the Committee shall move in-camera.

36. ADJOURNMENTS

Any meeting of the Board or a Committee thereof may be adjourned at any time and from time to time, and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place. No notice shall be required of any such adjournment.

37. EXECUTION OF DOCUMENTS

Any two individuals holding the position of the Chair, Vice-Chair, President or Treasurer, or any person or persons from time to time designated by resolution of the Board of Governors may act as signing officers for the College for banking purposes.

The Chair, Vice-Chair, President or Treasurer, or any two of them, or any person or persons from time to time designated by resolution of the Board of Governors may transfer any and all shares, bonds or other securities standing in the name of the College in its individual or any other capacity or as trustee or otherwise, and may accept in the name and on behalf of the College, transfers of shares, bonds or other securities transferred to the College, and the Treasurer, Board Secretary or President of the College may affix the corporate seal to any such transfers or acceptances of transfer, and may make, execute and deliver under the corporate seal, any and all instruments in writing necessary or proper for such purposes, including the appointment of an attorney or attorneys to make or accept transfers of shares, bonds or other securities on the books of any company or corporation.

Notwithstanding any provisions to the contrary contained in the by-laws of the College, the Board may, at any time, by resolution, direct the manner in which, and the persons by whom, any particular instrument, contract or obligations of the College may or shall be executed.

38. FISCAL YEAR

Unless otherwise ordered by the Ministry the fiscal year of the College shall terminate on the 31st day of March in each year.

39. CHEQUES

All cheques, bills of exchange or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the College shall be signed by such officer or officers, agent or agents of the College, and in such manner as shall, from time to time, be determined by resolution of the Board and any one of such officers or agents may alone endorse notes and cheques for deposit with the College's bankers for the credit of the College, or the same may be endorsed "for collection" or "for deposit" with the bankers of the College by using the College's rubber stamp for the purpose. Any one of such officers or agents so appointed may arrange, settle, balance and certify all books and accounts between the College and the College's bankers and may receive all paid cheques and vouchers and sign all of the bank's forms or settlement of balances and release or verification slips.

40. DEPOSIT OF SECURITIES FOR SAFE KEEPING

The securities of the College shall be deposited for safekeeping with one or more banks, or other financial institutions to be selected by the Board. Any and all securities so deposited, may be withdrawn, only upon the written order of the College signed by such officer or officers, agent or agents of the College and in such manner, as shall be determined by resolution of the Board and such authority may be general or confined to specific instances. The institutions which may be so selected as custodians of the Board shall be fully protected in acting in accordance with the directions of the Board and shall, in no event, be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof.

41. BORROWING

Subject to compliance with the Act, the Regulations of the Act, the Minister's Binding Policy Directives, and all laws and agreements which govern or bind the College, the Board is hereby authorized by resolution, to:

- 41.1 borrow money on the credit of the College in such amounts, on such terms and from such persons, firms or corporations, including chartered banks, as may be determined by resolution of the Board;
- 41.2 make, draw and endorse promissory notes or bills of exchange;
- 41.3 hypothecate, pledge, charge or mortgage all or part of the property of the College to secure any money so borrowed or for the fulfillment of the obligations incurred by it under any promissory note or bill of exchange signed, made, drawn or endorsed by it;

41.4 issue bonds, debentures and obligations on such terms and conditions as the Board may, by resolution, decide and pledge or sell such bonds, debentures and obligations for such sums and at such prices as the Board may, by resolution, decide, and mortgage, charge, hypothecate or pledge all or any part of the property of the College to secure any such bonds, debentures and obligations.

41.5 The Board may, by resolution, delegate to officers of the Board, all or any powers necessary for the purposes of borrowing and giving security by the College to such extent and in such manner, as the Board may determine.

42 BUDGET APPROVAL

42.1 The Board shall approve the College's annual budget.

42.2 The Board shall not approve an annual budget prepared in respect of a fiscal year of the College that would provide for an accumulated deficit at the end of such fiscal year without the written approval of the Minister.

42.3 The Board shall not authorize any expenditures that are not within the financial limits set by the annual budget, without the written approval of the Minister.

43 AUDITORS

The Board shall appoint an auditor no later than four months prior to the end of the fiscal year, who shall be instructed to prepare for submission to the Board and the Ministry not later than the 15th day of June in each fiscal year, an audited financial statement for the preceding fiscal year.

44 BOARD POLICIES

The Board shall approve and implement policies which set out the processes and manner in which the Board fulfils its responsibilities.

45. AMENDMENTS

This by-law may be amended at a regular meeting of the Board by an majority vote of the Board members present.

46. PUBLICATION OF MINUTES

All public minutes of the Board shall be open to examination during normal office hours of the College and shall be available to the public on the College's website.

47. PUBLICATION OF BY-LAW

This By-law shall be open to examination by the public during the normal office hours of the College and shall be available to the public on the College's website.

48. REPEAL OF PREVIOUS BY-LAW

By-Law No. 1 of the Board of Governors of Durham College of Applied Arts and Technology, enacted on the 13th day of June, 2007, is hereby repealed.

49. FORCE AND EFFECT

This By-law shall come into force and take effect on the date it is finally passed.

Enacted by the Board of Governors and sealed with the Corporate Seal this 9th day of February, 2011.



Board Chair



Board Secretary