



UNIVERSITY OF LOUISVILLE  
**FOUNDATION**

# Board of Directors Orientation

**March 28, 2017**

# Topics Of Discussion

- 1. Conflict of Interest**
- 2. Overview of By-laws**
- 3. Open Meetings & Open Records Act**



# Three Key Words

***PERPETUITY***  
***GROWTH***  
***CONSISTENT***



# Two Lenses

The endowment should have two other primary missions:

1. The purchasing power of the endowment's assets must be maintained in perpetuity; and
2. The endowment must achieve investment returns sufficient to sustain the level of spend necessary to support ongoing University operations





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# Conflict of Interest

# Conflict of Interest

## *Three Considerations:*

1. Are you or a family member deriving direct or indirect financial benefit from a relationship with the Foundation or U of L?
2. Is the benefit to the Foundation or University so compelling that the board should consider allowing the relationship?
  - a) Paramount concern is the integrity and reputation of the Foundation and University.
  - b) If the benefit to the Foundation or University is only slight (not significantly more valuable to the institution than an alternative), then it should not be permitted.
  - c) Threats, quid pro quos or actual or anticipated negative conduct of a board member should not be considered.
3. In short, if perceptions, by reasonable people in the community, would consider a relationship a conflict, try to avoid it.





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# Overview of By-laws

# By-laws

## *Purpose*

ULF is a not-for-profit organization whose work is exclusively for the charitable and educational purposes of the University of Louisville





# By-laws

1. No income or property of ULF can inure to the private profit of any donor, member, trustee or individual.

Also, the Foundation cannot:

1. Directly or indirectly engage in propaganda.
2. Attempt to influence legislation.
3. Participate or interfere in any political campaign on behalf of any candidate for public office.
4. Engage in self-dealing or retain any excess holdings, make any investments, or taxable expenditures that subjects ULF to corporate tax.



# By-laws

## ***Board of Directors***

### *Charge*

Manage the property and affairs of ULF

### *Composition*

15 Directors: Ex-Officio (1), Trustee Directors (4),  
and At-Large Directors (10)



# By-laws

## ***Ex-Officio Director***

*President of the University of Louisville  
Serves as a voting member of the Board*

The Ex-Officio Director shall at all times be the  
University of Louisville President

## *Vacancy*

Shall not be filled until such time as a successor is  
named as the University President



# By-laws

## ***Trustee Directors***

*Four persons who are members of the University of Louisville Board of Trustees*

The Chairman of the Board of Trustees shall appoint  
Trustee Directors

### *Vacancy*

Shall be filled by the person serving as the Chairman of the  
Board of Trustees at the time the vacancy occurs

Newly appointed director shall serve the remaining term of  
the Director who resigned



# By-laws

## ***At-Large Directors***

*10 Persons*

*At-Large Directors must be interested in the mission and welfare of the University of Louisville*

They must NOT be a Trustee, Officer or Employee of the University

OR

hold any elective or appointive office in the Commonwealth of Kentucky, or any agency, instrumentality or political subdivision of the Commonwealth



# By-laws

## ***At-Large Directors***

At-Large Directors shall be elected by a majority vote of the incumbent Directors

At-large candidates are proffered by the members of the Nominating Committee

## ***Vacancy***

Shall be filled by a majority vote of the remaining Directors

Newly elected directors shall serve the remaining term of the Director who resigned



# By-laws

## ***ULF Committees***

### ***6 Current Committees***

1. Executive Committee
2. Finance Committee
3. Nominating Committee
4. Development Cabinet
5. Property Committee
6. Audit Committee



# By-laws

## *Meetings*

### *3 Different Types of Meetings*

1. Annual Meeting (1) –September
  - At the annual meeting the Board elects officers and the Executive Committee to serve for 1 year terms
2. Regular Meetings (3) –March, June & December
3. Special Meetings (Called by Chair or President)
  - Or at the request of 3 or more Directors





# By-laws

## *Quorums & Voting*

**Quorum = A majority of the Board where more than half are At-Large Directors**

### *Committee Quorums*

**Quorum = A majority of the Committee where more than half are At-Large**

Exception is: Nominating Committee where ALL members must be present to select and recommend At-Large Directors



# By-laws

## ***Article V- Sundry Provisions***

### *Compensation of Officers and Employees*

Compensation due from the Corporation to any person shall be fixed by resolution of the Board of Directors

### *Indemnification*

Shall, to the full extent possible under Kentucky statute, indemnify each Director and officers of Corporation for legal fees, expenses, judgement, taxes, fines, settlement amounts, incurred as the result of being a Director or Officer of ULF



# By-laws

## ***Article VI- Amendment of By-laws***

The Board of Directors can amend, repeal or adopt new by-laws by a 2/3<sup>rd</sup> vote of the full Board of Directors





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# Open Meetings

# Open Meetings

## *When Must A Meeting Be Open*

- Any gathering of a quorum of the Board or of any Committee
  - A meeting need not be in person
  - Can be regular, special, informational, or casual gathering held in anticipation of a regular or special meeting
- If public business is discussed or any action taken, the meeting must be “open” subject to certain limited exceptions



# Open Meetings

## *Quorums*

- Quorum: A majority of the Board or Committee where more than half attending are At-large Directors, except for the Nominating Committee where all members must be present to select and recommend At-Large Directors
- Can't arrange a series of meetings of less than a quorum where, if held together, would have constituted a quorum

*But individual meetings can take place where the purpose is to educate individual members on a specific issue*



# Open Meetings

## ***Requirements***

- Time and place conducive to public viewing
- At least 24 hour advance notice to public and media that have requested such notices (media can record and/or broadcast)
- Notice includes: date, time, place and agenda
- Discussion and action at the meeting shall be limited to items listed on the agenda in the notice
- Minutes must be taken and available no later than immediately after next public meeting
  - *Right to attend is to view and listen; doesn't grant right to participate*



# Open Meetings

## ***13 Open Discussion Exceptions***

(APPLICABLE):

- Property purchase or sale that, if discussed publicly, would likely affect the value of the property
- Proposed or pending litigation against or on behalf of agency
- Personnel matters that might lead to the appointment, discipline or termination of an employee
- Discussions between agency and another business regarding a specific proposal where, if discussed publicly, would jeopardize the siting, retention, expansion, or upgrading of the business







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# Open Records Act

# Open Records Act

## ***What Are The Requirements?***

- “Public record” includes (among other records): paper records, recordings, software, emails, databases, electronically-created or stored information that is “prepared, owned, used, in the possession of or retained by a public agency.”
- Must produce or make available for inspection
  - Inspection must be at reasonable time and place
  - If produced, can charge for copying

*Do not need to compile information or create a document that doesn't exist*



# Open Records Act

## *Production Process*

- Public must submit a written request, describing desired information with particularity
- Agency must respond within three business days, excluding holidays
  - Three days begins the day after request is received
- If request sent to wrong agency, or custodian, agency must notify requester and let them know who has it and provide contact information of correct custodian
- If record not available because it's in use or in storage, and can't be made available in three days, then must explain that and make it available as soon as possible
- If production would be unduly burdensome then must explain that "by clear and convincing evidence"



# Open Records Act

## ***14 Exceptions to Production***

(APPLICABLE):

- Personal in nature and would create invasion of privacy (i.e. address)
- Confidential and compiled and maintained for scientific research
- If disclosure would create an unfair commercial advantage to competitors to entity that disclosed records to the Agency
- Pertain to prospective location of a business that hasn't already said it wants to be in, expand or relocate in KY



# Open Records Act

## ***14 Exceptions to Production Continued***

- Public records or information the disclosure of which is prohibited or otherwise made confidential (i.e. records subject to attorney-client privilege)
- Real estate appraisals, engineering or feasibility estimates made in the course of acquiring property—until acquired.
- Preliminary documents including drafts, notes correspondence with private individuals, recommendations and preliminary memos in which opinions are expressed or policies formulated



# Open Records Act

***Since September 26, 2016 the Foundation has responded to 30 open record requests and has produced approximately 5,000 pages of records.***





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Questions?



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**Thank you!**