



Memorandum

To: Birgitte Ryslinge
From: Andi Spirtos, Foundation Development Director
Date: June 10, 2021
Re: OCCC – OCCCCF Agreement 4-27-2021

The attached redline draft was approved by the OCCCCF Board on April 27, 2021, signed by Adam Springer, President of the Foundation Board, and is now respectfully being forwarded to the BOE Board for consideration.

Changes to the existing Agreement dated February 28, 2018 occur on the following pages and paragraphs:

- 1) Page 1, paragraph 2, line 2, add parenthesis around “3” to read “(3);”
- 2) Footer on all pages, change to “Approved by the OCCC Foundation on 4-27-2021;”
- 3) Page 2, paragraph 3, lines 4 and 5, change DoA to “Foundation Development Director (FDD);”
- 4) Page 2, paragraph 5, subsection a, line 2, add parenthesis around “3” to read “(3);”
- 5) Page 2, paragraph 5, subsection c, line 1, change “The” to “Any and all National, State and City laws;”
- 6) Page 3, Section B, paragraph 2, lines 1 and 2, change “Director of Advancement” to “Foundation Development Director (FDD)” and on line 3, change “DoA” to “FDD;”
- 7) Page 3, Section B, paragraph 6, line 2, change “can” to “may;”
- 8) Page 4, Section C, paragraph 2, line 1, change “per year” to “every other year;”
- 9) Page 4, Section C, paragraph 3, line 1, change “DoA” to “FDD;”
- 10) Page 4, Section C, paragraph 6, line 1, change “Director of Advancement (DoA)” to “Foundation Development Director ((FDD) and on line 3, change “DoA” to “FDD;”

That concludes the proposed changes.

The Foundation Board thanks the BOE Board members for their consideration.

Respectfully,

Andi

Andrea Spirtos, *CFRE*
Development Director
Oregon Coast Community College Foundation

The Mission of the Oregon Coast Community College Foundation is to advance educational opportunities by raising funds for college needs while increasing public awareness of the College and its many benefits.

Agreement

between

Oregon Coast Community College

and

The Oregon Coast Community College Foundation

Oregon Coast Community College (OCCC) was founded in 1987 to equip students for success by providing educational pathways and supports in response to the diverse needs of the community. The College enriches the economic and civic vitality of Lincoln County and beyond through accessible and engaging programs.

The Oregon Coast Community College Foundation (OCCC Foundation) was established in 2000 as a 501(c)(3) charitable organization to advance educational opportunities at OCCC by raising funds for College needs and increasing public awareness of the College and its many benefits. The Foundation fulfills its mission by securing private donations,, holding special events and fundraisers, stewarding resources, and administering special programs, such as the OCCC Foundation Scholarship program.

The Foundation is dedicated to assisting the College by fostering a culture of philanthropy and providing financial and other support for long-term academic and other institutional priorities. The Foundation and the College recognize that close collaboration and cooperation is necessary and beneficial (1) to appropriately serve and assist the educational mission and priorities of the College, (2) to avoid competition for funds between the College and the Foundation or duplication of efforts within the two organizations, and (3) to ensure that funds received are deployed in the most beneficial manner to the College's mission to the benefit of its students and in a manner aligned with the College's program and needs, as well as consistent with donor intent and any relevant governing legal or contractual provisions.

This Agreement is entered into by and between Oregon Coast Community College and the Oregon Coast Community College Foundation in order to support the missions of both institutions.

Separate Obligations

A. The Foundation agrees to:

1. Seek to obtain money, services, in-kind contributions, and real and personal property for the benefit of the College. For this purpose, the Foundation will design and implement programs and procedures in collaboration with the College to solicit, accept, and receive such money and property. Such contributions shall be used to support student scholarships, program development, technology and equipment upgrades, capital development and improvements, and other College priorities. The Foundation will work closely with the College to ensure the management and disposition of all gifts and donations aligns with College priorities.
2. The Foundation will obtain College approval before acceptance of any restrictive terms and conditions attached to a gift and advise donors that a restricted gift for the benefit of the College may not be accepted without College approval.

Notwithstanding the forgoing, the College and the Foundation may prepare a list of preapproved categories (e.g., specific programs) for which no individual pre-approval is necessary.

- 3 Share with the College the personnel costs of the Director of Advancement position. The Foundation shall include in its annual budget reimbursement to the College for a mutually agreed upon portion of the total cost of employment for the Foundation Development Director (FDD). DoA.
- 4 Plan all fundraising activities, promotion and sponsorship of programs in support of the College in close cooperation with the President of the College.
- 5 Continue to manage the affairs of the Foundation in accordance with:
 - a. The requirements for tax-exempt entities under Federal IRS Code including its section 501(c)(3);
 - b. The requirements of the Oregon Department of Justice Charitable Activities Section; and,
 - c. Any and all National, State, County and City ~~The~~ laws governing charitable solicitations and nonprofit corporations.
- 6 Accept, hold, administer, invest and disburse funds and properties of any kind or character in accordance with the terms of such gifts.
- 7 Transfer to the College in a timely manner, all gifts and donations it may receive wherein the College is designated as recipient, and properly account and be responsible for all donations which designate the Foundation as recipient in accordance with established policies.
- 8 Use assets and earnings of the Foundation for the benefit of the College, students and the community or for payment of necessary and reasonable administrative expenses of the Foundation at the discretion of the Foundation Board.
- 9 Have in place appropriate accounting and gift management systems to ensure that financial and donor transactions are maintained in accordance with generally accepted business and accounting practices.
- 10 Not consolidate or change the Foundation's Articles of Incorporation or Bylaws during the term of this Agreement without prior written approval from the College.
- 11 Ensure that correspondence, solicitations, activities and advertisements concerning the Foundation are clearly discernible as being from the Foundation.
- 12 As required by the Family Educational Rights and Privacy Act, 20 USC 1232(g) ("FERPA") and ORS 326.565, the Foundation shall not disclose any personally identifiable information or records regarding students or their families that the Foundation may learn or obtain in the course and scope of its performance of this Agreement. The parties recognize that FERPA imposes strict penalties for improper disclosure or re-disclosure of confidential student information, including but not

limited to denial of access to personally identifiable information from education records, for at least five years (34 CFR 99.33(e)). Therefore, consistent with FERPA's requirements, personally identifiable information obtained by the Foundation in the performance of this Agreement may not be re-disclosed to third parties without the written consent of (a) the student, if the student has reached the age of majority or has been legally emancipated; or (b) the underage student's parent or guardian if the student has not reached the age of majority. Any such personally identifiable information must be used only for the purposes identified in this Agreement.

B. The College Agrees to:

- 1 Share annually with the Foundation its strategic plan, institutional priorities, projects, and resource requirements so that the Foundation may represent the direction and needs of the College to donor prospects and align its programs and campaigns to be consistent with the strategic objectives of the College.
- 2 Share with the Foundation the personnel costs of the Foundation Development Director (FDD)~~Director of Advancement~~ position. The College shall include in its annual budget a mutually agreed upon portion of the total cost of employment for the FDD~~DoA~~. Such appropriation shall be subject to review and approval by the College Board of Directors pursuant to the College's budget process. Personnel funded in whole or in part by the College to staff or provide support to the Foundation will be College employees and will be supervised by the College and subject to the personnel policies and applicable College collective bargaining agreement, if any. College employees may assist and advise the Foundation at the Foundation's request, but shall not attempt to control or make decisions for the Foundation.
- 3 Provide office space, including utilities and technology support services, at no cost to the Foundation. In addition, during the annual college budget process the College will work with the Foundation to determine additional College support for materials and services reasonably required to support Foundation activities including items such as hardware, software, marketing, marketing tools, and other appropriate equipment/support.
- 4 Designate the Foundation Office as the entity for development of fundraising programs. All external solicitation of funds and grants will be coordinated by the Foundation Office.
- 5 Participate with the Foundation in the development of the Foundation's fundraising programs and campaigns as is necessary for their success.
- 6 Properly alert the Foundation to prospective gifts so that each opportunity for enhancing gift potential and donor relations ~~may~~can be fully utilized.
- 7 Except as may be limited by state or Federal law, the College shall provide the Foundation with access to student and alumni records for purposes of granting scholarships, engaging and soliciting gifts from alumni, and other purposes consistent with the Foundation's Bylaws relating to support of the College and furthering the College's educational mission. For these purposes, the Foundation is deemed a school official with a legitimate educational interest within the meaning of

FERPA (20 U.S.C. § 1232g; 34 CFR Part 99).

C. General Agreements:

1. The College acknowledges and accepts the separate and independent nature of the Foundation and the Foundation acknowledges and accepts the separate and independent nature of the College. Each agrees to cooperate with the other in the advancement, achievement and support of the educational, service and community programs of the College.
2. This agreement will be reviewed at least once every other year per year, no later than 60 days prior to July 1. Any alteration or modification of any term of this Agreement must be in writing and signed by both parties.
3. Agreements on cost sharing for the ~~FDD~~DoA position shall cover at least two years. Such agreements will be reviewed prior to June 30 in odd numbered years, with any adjustments scheduled to take effect July 1 of the following even numbered year.
4. One member of the OCCC Board of Education will serve as a voting board member of the OCCC Foundation Board of Directors.
5. The OCCC President will serve as an Ex-officio, non-voting board member of the OCCC Foundation Board of Directors.
6. The OCCC Foundation Development Director (FDD) ~~Director of Advancement (DoA)~~ serves as an Ex-officio, non-voting member of the board and the Executive Director of the OCCC Foundation. The ~~DoA~~ FDD is employed by the College and supervised by the OCCC President.
7. In order to preserve the independence of the Foundation, the Foundation Board shall not appoint a College employee as a voting member of the Foundation Board. College employees may be appointed to the Foundation Board in an Ex-officio, non-voting capacity, as currently provided in the Foundation Bylaws.
8. The Foundation Board shall serve as advisors to the college regarding fundraising and community activities.
9. Unless expressly agreed upon in writing by both parties, the Foundation shall be solely responsible for the satisfaction of its own obligations, debts, liabilities and judgments. The Foundation shall not use funds belonging to the College and managed by the Foundation on its behalf for the satisfaction of any such obligation, debt, liability or judgment. Unless expressly agreed upon in writing by both parties, the College shall be solely responsible for the satisfaction of its own obligations, debts, liabilities and judgments. The College shall not use funds belonging to the Foundation.
10. The Foundation shall annually submit to an independent audit conducted within a timeframe that reports to and supports the College audit process. The Foundation shall permit the College to inspect all Foundation books and records at reasonable times. The Foundation shall provide such reports and information on its financial status and operations as required by the President in order to assure conformance

by the College and the Foundation with the provisions of this Agreement.

11. To the fullest extent permitted by law, the Foundation shall indemnify the College, its governing board, officers, employees, agents, and students in their official and personal capacities, from and against any and all claims, damages, liabilities, injuries, expenses, demands, and judgments, including court costs and attorney fees, arising out of the Foundation's performance of this Agreement or arising out of service of any such person or persons at the Foundation's request or on its behalf.
12. To the fullest extent permitted by law, the College shall indemnify the Foundation, its governing board, officers, employees and agents, in their official and personal capacities, from and against any and all claims, damages, liabilities, injuries, expenses, demands, and judgments, including court costs and attorney fees, arising out of the College's performance of this Agreement or arising out of service of any such person or persons at the College's request or on its behalf.
13. The laws of the State of Oregon will govern this Agreement. Before instituting any legal action pursuant to this agreement, the College, through its President, shall meet with the Foundation Board President or designee, and attempt in good faith to resolve the disagreement. If the parties are unable to resolve the disagreement, informal mediation should be sought prior to legal action being initiated. Venue of any legal action herein shall be in Lincoln County Circuit Court.
14. The Executive Director of the Foundation is the party responsible for the administration of this agreement.
15. This agreement shall continue until terminated. It may be terminated by either party only at the end of the respective fiscal year upon written notice to the other party at least ninety (90) days in advance.
16. This Agreement is not assignable by either party, in whole or in part.
17. If any covenant or provision of this Agreement is adjudged void, such adjudication will not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.
18. This Agreement constitutes the entire agreement of the parties on the subject of their general and overall relationship and supersedes all prior and contemporaneous oral and written agreements and understandings on such subject. However, the parties may enter into other stand-alone agreements on specific subjects. All such other agreements shall also be in writing and signed by the parties.

The Foundation

The College

President, Board of Directors

President, Oregon Coast Community College

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Notwithstanding the forgoing, the College and the Foundation may prepare a list of preapproved categories (e.g., specific programs) for which no individual pre-approval is necessary.

- 3 Share with the College the personnel costs of the Foundation Coordinator position which will be referred to by the Foundation as the Foundation Development Director (FDD). The Foundation shall include in its annual budget reimbursement to the College for the mutually agreed upon 50/50 portion of the total cost of employment for the FDD.
- 4 Plan all fundraising activities, promotion and sponsorship of programs in support of the College in close cooperation with the President of the College.
- 5 Continue to manage the affairs of the Foundation in accordance with:
 - a. The requirements for tax-exempt entities under Federal IRS Code including its section 501(c)(3);
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The Foundation



President, Board of Directors

The College



President, Oregon Coast Community College