

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance
Consent

AGENDA ITEM: 7 – J

DATE: June 27-29, 2017

SUBJECT: Memorandum of Understanding – SDBOR & SDSU Alumni Association, Inc.

South Dakota State University seeks approval of a Memorandum of Agreement between the Board of Regents and the SDSU Alumni Association, Inc. in accordance with BOR Policies [5:9](#) and [5:3\(1\)\(I\)](#).

The SDSU Alumni Association, Inc. is a nonprofit corporation organized in the State of South Dakota as a 501(c)(3) entity in 1992, and by its Amended Articles of 2008, for the purpose of promoting the objectives of South Dakota State University by: (i) representing alumni and their interests with regard to the University, (ii) establishing and fostering quality and lasting relationships between the University and its alumni, (iii) supporting the mission and best interests of the University, and (iv) maintaining official alumni records. The corporation is authorized by law to accept gifts for its purposes. The corporation is required by its Articles of Incorporation to transfer any funds remaining at dissolution to South Dakota State University.

The MOU between the Board of Regents and SDSU Alumni Association, Inc. sets forth the general recognition of the SDSU Alumni Association, Inc. as an affiliated entity of SDSU that can accept financial support from and provide services to the University pursuant to the written agreement of the SDSU Alumni Association, Inc. and the University. The SDSU Alumni Association, Inc. could also accept gifts for University related purposes in accordance with the Board of Regents and University policies.

Accountability and reporting is required by this MOU in order to ensure compliance with all applicable laws, regulations, and policies.

The MOU has been approved as to form by the BOR General Counsel in accordance with BOR Policy [5:9](#). SDSU requests that the Board of Regents authorize the Executive Director and CEO of the Board of Regents to execute the MOU.

DRAFT MOTION 20170627_7-J: I move to approve the Memorandum of Understanding between the South Dakota Board of Regents and the South Dakota State University Alumni Association, Inc.

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE SOUTH DAKOTA BOARD OF REGENTS
AND SOUTH DAKOTA STATE UNIVERSITY ALUMNI ASSOCIATION, INC.**

In the pursuit of resources necessary to sustain and enhance the quality of public higher education in South Dakota, the Board of Regents (“Regents”), South Dakota State University (“University”), and the South Dakota State University Alumni Association, Inc. (“Association”) are bound by mutually supportive visions, values and objectives.

Acknowledging a common objective to help the University continue its progressive development as an institution of higher education, the Regents and the Association agree to coordinate their efforts in order to more effectively advance their common purposes. This document is intended to set forth policies and procedures that will aid in that coordination.

The Board of Regents recognizes that the Association is an entity separate and independent from the University, the Board of Regents, and the State of South Dakota. Both the Regents and the Association recognize the need to work in concert to more effectively advance their common interests in the growth and development of the University. Therefore, it is incumbent upon them to formalize their working relationship by agreeing on the policies and procedures set forth below.

Priorities on all undertakings by the University involving the Association will be determined by mutual agreement between the University and, when appropriate, the Regents.

Policies and Procedures – Regents, University, and Association

1. Governance and Authority

A. Board of Regents

- i. The Board of Regents is the Governing Board of South Dakota State University and is responsible for setting priorities and long-term plans for the University.
- ii. The Board of Regents selects the University President and approves the appointment of all University personnel. The Regents are ultimately responsible for the employment, compensation, and evaluation of all University employees. The Regents are solely responsible for determining the compensation and benefit program to be paid to the President and other employees of the University in accordance with state personnel and Board of Regents policy.
- iii. The Board of Regents is legally responsible for the performance and oversight of all aspects of University operations including overseeing the mission, leadership, and operations of the University.
- iv. The Regents and University recognize that the Association President and CEO, or successor, speaks for the Association in an official capacity.

B. South Dakota State University Alumni Association, Inc.

- i. The South Dakota State University Alumni Association, Inc. is an independent 501(c)(3) nonprofit corporation created to foster a spirit of loyalty and fellowship among graduates, faculty, former students, and friends of South Dakota State University, and to direct an organized cooperative effort for the advancement, development, achievement, and honor of both the University and its alumni.
- ii. The Association Board of Directors is responsible for the control and management of all assets of the Association.
- iii. The Association Board of Directors is responsible for the employment, compensation, and evaluation of all Association employees.
- iv. The Association Board of Directors is legally responsible for the performance and oversight of all aspects of Association operations.
- v. The Association recognizes that the University President and/or Regents speak for the University.

2. Association Representation in Institutional Planning

- A. The Association President and CEO, or successor, shall be included as a member of the University President's extended management team.
- B. The Association shall be an active and prominent participant in the strategic planning for the University.
- C. The Association shall select any appointees to boards and/or committee positions which are designated to represent the Association.

3. University Representation on the Association Board of Directors

- A. The University President shall serve as an ex-officio member of the Association Board and an ex-officio member of the Association's Executive Committee. Other University employees may serve on the Association Board by mutual agreement between the Association and the University President.

4. Access to Records

- A. The Association shall provide access to data and records to the University on a need-to-know basis in accordance with applicable laws, policies and guidelines.
- B. The University will provide access to data and records to Association on a need-to-know basis in accordance with applicable laws, policies, and guidelines.

5. Use of University Name

- A. The Association may use the name and marks of the University in addition to its own, so long as the use complies with Regents and University policies.

6. Association Financial Management

- A. The Association is responsible for establishing a financial plan to underwrite the cost of the Association programs, operations, and services.
- B. The Association may accept donations from any source it may deem acceptable, but solicitation and acceptance of gifts shall be subject to Regents and University policies.
- C. The University may enter into agreements for financial support and services of the Association when appropriate.

7. Association Audit

- A. The Association shall provide the Regents and University with a copy of its annual financial statements audited by an independent public accounting firm selected by the Association's Board of Directors.

8. Reporting to the University

- A. On an annual basis, the Association shall provide to the Regents and University:
 - i. An annual report on its activities;
 - ii. A copy of current policies on investment and payout (if altered from the prior year); and
 - iii. A statement confirming that all gifts made to the Association during the prior year were appropriately acknowledged.
- B. In addition, interim reports shall be available to designated University personnel, and the Association shall provide such other schedules, records, and data as may be reasonably requested by the Regents.

9. Third Party Agreement by Association

- A. The Association shall not enter into any contract that would obligate the University or the Board of Regents without prior written approval of the Board of Regents and the University President, and which shall be for the benefit of the University.

10. Insurance and Indemnification

- A. The Association, as well as its officers and agents shall procure insurance policies for all of its regular functions, including liability for actions, covered perils, errors and omissions, property, and similar coverage. Losses incurred by the Association shall be borne by the Association.

- B. The Association agrees to indemnify, defend and save harmless the University and the Board of Regents, their officers, agents, and employees from any and all loss, damage, or liability that may be suffered or incurred by them, caused by, arising out of or in any way connected with the use of any facilities by the Association in connection with this agreement.

11. Legal Counsel

- A. The Association shall be responsible for its own legal counsel.

12. Termination of the Association

- A. In the event that Association ceases to operate for any reason, all of the Association’s assets shall accrue to the University for its exclusive purposes as set forth in Association’s Articles of Incorporation and shall be transferred to the South Dakota State University Foundation, Inc. for the benefit of the University.

13. Term of Agreement

- A. This agreement may be terminated upon ninety (90) days’ written notice of a party. The University and Association shall review this agreement every three (3) years and propose any necessary changes to the Board of Regents for consideration. This agreement may be modified upon the written agreement of all parties.

IN WITNESS WHEREOF, this agreement is first executed on behalf of the South Dakota Board of Regents, South Dakota State University, and the South Dakota State University Alumni Association, Inc. on this _____ day of _____, 2017.

South Dakota Board of Regents:

By: _____
 Executive Director and CEO Date

Regents Legal Review:

By: _____
 General Counsel Date

South Dakota State University:

By: _____
 University President Date

University Legal Review:

By: _____
 University Counsel Date

South Dakota State University Alumni Association, Inc.:

By: _____
 Association President/CEO Date

By: _____
 Chair, Board of Directors Date