



THE MOHAWK COLLEGE OF APPLIED ARTS AND TECHNOLOGY

BY-LAW NO. 1

(General Matters)

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BE IT ENACTED as a BY-LAW of THE MOHAWK COLLEGE OF APPLIED ARTS AND TECHNOLOGY as follows:

1. INTERPRETATION

1.01 In this By-law:

- (a) "Board" shall mean the Board of Governors of the College;
- (b) "By-law" shall mean this By-law (as amended from time to time) and all other By-laws of the College in effect from time to time;
- (c) "College" shall mean The Mohawk College of Applied Arts and Technology;
- (d) "ONCA" shall mean:
 - (i) the *Not-for-Profit Corporations Act, 2010* (Ontario) and all regulations made thereunder and any amendments made to the *ONCA* or its regulations;
- (e) "Employee" shall mean an academic staff member, administrative staff member or support staff member as defined in Appendix 1 of this By-law;
- (f) "External Governor" shall mean a Governor appointed in accordance with Section 4.02;
- (g) "Governor" shall mean an External Governor and/or an Internal Governor of the Board;
- (h) "Internal Governor" shall mean a Governor elected in accordance with Section 4.03;
- (i) "LGIC" means the Lieutenant Governor in Council;
- (j) "Minister" shall mean the Minister of Colleges and Universities or a successor Minister;
- (k) "OCAAT Act" shall mean the *Ontario Colleges of Applied Arts and Technology Act, 2002* and all regulations made thereunder and any amendments made to the *OCAAT Act* or its regulations;
- (l) "Policy Directives" shall mean the Minister's binding policy directives

issued under Section 4 of the *OCAAT Act*;

(m) "President" shall mean the president of the College; and

(n) "Student" shall mean a student as defined in Appendix 1 of this By-law.

1.02 In these By-laws and in all other By-laws and special resolutions of the College hereafter passed unless the context otherwise requires, words in the singular include the plural and vice-versa, words in one gender include all genders and references to persons shall include firms and corporations. Headings used in the By-law are inserted for reference purposes only and are not to be considered or taken into account in construing the terms and provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions.

2. HEAD OFFICE

The head office of the College shall be in the City of Hamilton in the Province of Ontario and at such place therein as the Governors may from time to time determine.

3. SEAL

The seal, an impression whereof is stamped at the end of this By-law, shall be the corporate seal of the College.

4. BOARD OF GOVERNORS

4.01 Size and Constitution of Board: Each Governor shall also be a member of the College. The Governors shall consist of such persons as are from time to time elected or appointed Governors of the College in accordance with the provisions of these By-laws and in accordance with the *OCAAT Act*. The Board shall be composed of:

(a) twelve (12) External Governors;

(b) up to four (4) Internal Governors; and

(c) the President, by virtue of office, as a voting member of the Board.

The Board shall not be improperly constituted solely because the Internal Governors, or any of them, were not elected.

4.02 Appointment of External Governors: So long as the number of External Governors remains fixed at twelve (12):

(a) four (4) External Governors shall be appointed by the LGIC; and

- (b) eight (8) External Governors shall be appointed or reappointed by the members of the Board holding office at the time of appointment, provided that each such External Governor appointed by the Board shall not participate in the vote relating to renewal or extension of that External Governor's own appointment.

4.03 Election of Internal Governors: The Internal Governors shall be elected in accordance with the procedures established in Appendix 1 of this By-law.

4.04 Eligibility Requirements of External Governors: No External Governor shall be an employee or a student of a college of applied arts and technology as defined by the *OCAAT Act*. An External Governor appointed by the Governors holding office at the time of appointment shall not participate in a vote of the Board relating to a renewal or extension of his or her appointment.

4.05 Qualifications of Governors: Every Governor shall be an individual who:

- (a) is eighteen (18) or more years of age;
- (b) is not an undischarged bankrupt;
- (c) has not been found under the *Substitute Decisions Act, 1992* or under the *Mental Health Act* to be incapable of managing property;
- (d) has not been found to be incapable by any court in Canada or elsewhere; and
- (e) has not been declared an ineligible individual under the *Income Tax Act (Canada)*.

4.06 Governor Consent: A Governor who is elected or appointed must consent in writing to hold office as a Governor before or within ten (10) days after their election or appointment.

4.07 Term and Term Limits:

- (a) Each External Governor and each Internal Governor (other than the student Governor) shall be appointed or elected, as applicable, for a term not to exceed three (3) years.
- (b) Each student Governor shall be elected for a one (1) year term.
- (c) Each Governor shall take office on the first day of September in the year of appointment or election.

- (d) Notwithstanding the length of the term to which an Internal Governor may be elected, that term shall immediately terminate upon the Internal Governor ceasing to be a student, or employee, as the case may be; provided, however, that a student Governor who graduates prior to the expiration of the student Governor's term may continue to serve until the 31st day of August in the student Governor's year of graduation.
- (e) No person shall serve as an External Governor or Internal Governor (other than the student Governor) for more than six (6) consecutive years provided that after an absence of two (2) years such person shall again be eligible for re-election or re-appointment, as the case may be, for successive terms not to exceed six (6) years.
- (f) No person shall serve as a student Governor for more than four (4) consecutive years provided that after an absence of two (2) years such person shall again be eligible for re-election for successive terms not to exceed four (4) years.

4.08 Vacancies:

- (a) Where a vacancy occurs among the External Governors appointed by the Board, the Board shall appoint a person to fill the vacancy; and where a vacancy occurs among the External Governors appointed by the LGIC, the LGIC shall fill the vacancy;
- (b) Where a vacancy occurs among the Internal Governors of the Board, such vacancy shall be filled in accordance with the procedures set forth in Appendix 1 to this By-law;
- (c) The term of the person appointed or elected to fill a vacancy pursuant to subsection 4.06(a) or 4.06(b) shall be for the same term as is provided in subsections 4.05(a) and 4.05(b), as applicable, and shall commence upon such appointment or election and shall terminate on August 31 in the year in which such term expires.

5. POWERS OF THE BOARD

5.01 The *OCAAT Act* stipulates that the College is a corporation without share capital and shall consist of the members of the Board. As such, the Board shall manage or supervise the management of the activities and affairs of the College.

5.02 The Board may make, or cause to be made, in the College's name, any kind of contract which the College may lawfully enter into and, save as hereinafter provided,

generally may exercise all such powers and do all such other acts and things as the College is authorized to exercise and do, as provided by any applicable statute or law, in accordance with and subject to the obtaining of such approvals as may be required by law.

5.03 Without in any way derogating from the foregoing, and subject to the obtaining of such approvals as may be required by law, the Board is expressly empowered from time to time to purchase, lease or otherwise acquire, alienate, sell, exchange or otherwise dispose of shares, stocks, rights, warrants, options and other securities, lands, buildings, and other property movable or immovable, real or personal, or any right or interest therein owned by the College for such consideration and upon such terms and conditions as it may deem advisable. The Board may approve the ownership of other businesses, the creation of wholly owned or partially owned subsidiary corporations, or a College foundation, in accordance with legislative requirements and the provisions of the *OCAAT Act* and the Policy Directives.

5.04 The Board may issue governance policies to define its responsibilities.

6. MEETINGS OF THE BOARD

6.01 Calling of Meetings:

- (a) Except as otherwise required by law, the Board may hold its meetings at such place or places, or by such means, as it may from time to time determine.
- (b) Unless otherwise provided in this By-law, all Board Meetings and Standing Committees shall be conducted with reference to *Robert's Rules of Order*.
- (c) A Governor may, if all Governors consent, participate in a meeting of the Governors or a committee of Governors by telephonic or electronic means that permits all participants to communicate adequately with each other during the meeting and a Governor so participating in a meeting is deemed to be present at the meeting.
- (d) The Board shall determine each year an annual schedule of regular meetings. Board meetings may be formally called by the Chair or Vice Chair, or by the Secretary or Treasurer on the direction of the Chair, or of the Vice Chair, or of any five (5) Governors.
- (e) The Governors may consider or transact any business, either special or general, at any meeting of the Board.

6.02 Notice of Meetings:

- (a) Once established by the Board, the schedule of regular meetings shall be sent to all Governors and shall be posted on the College's website and publicized by whatever media are deemed appropriate by the Board.
- (b) Where urgent conditions prevail, notice of an unscheduled Board meeting shall be delivered, telephoned or sent by electronic mail to each Governor not less than one (1) day before the meeting is to take place or shall be mailed to each Governor not less than four (4) days before the meeting is to take place. Wherever possible, notice of unscheduled meetings of the Board will be posted on the College's website as soon as possible after they are called.
- (c) The certificate of the Secretary or Chair that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice.
- (d) No accidental error or omission in the giving of notice for a meeting of the Board 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 any or all proceedings taken or had thereat.

6.03 Quorum: A quorum at any meeting of the Board shall be the presence in person or through telephonic or electronic means in accordance with subsection 6.01(c) of a majority of the number of Governors that are required under subsection 4.01 of this By-law, plus one. No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of such meeting.

6.04 Meetings to be Public: Subject to subsection 6.05 below, meetings of the Board shall be open to the public and no person shall be excluded from such a meeting except for improper conduct as determined and expressed by resolution of the Board.

6.05 In-camera: Where a matter to be considered at a Board meeting is determined by the majority of the Governors present, in accordance with the criteria established below, to be confidential to the College, the part of the meeting concerning such confidential matter may be closed to the public ("in-camera").

- (a) In-camera meetings will generally be held to discuss sensitive matters pertaining to the following:
 - (i) the security of the property of and the financial obligations of the

- Board including, without limiting the generality of the foregoing, business operations and obligations;
- (ii) the disclosure of intimate, personal, or financial information in respect of a member of the Board or a committee of the Board, an employee, or prospective employee, or a student;
 - (iii) the acquisition, renovation or disposal of a College site;
 - (iv) discussions and decisions in respect of individual or collective negotiations with employees and or their representatives;
 - (v) litigation affecting the Board or College;
 - (vi) all matters arising out of the President's terms of employment, including hiring, evaluation, contract terms and termination;
 - (vii) Board self-evaluation;
 - (viii) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (ix) information that is prohibited from disclosure under the *Freedom of Information and Protection of Privacy Act* (Ontario);
 - (x) other matters that, in the opinion of the Board, the disclosure of which might be prejudicial to an individual or to the best interests of the College; and
 - (xi) consideration of whether an item is to be discussed in-camera.
- (b) Where a matter of a personal nature concerning an individual may be considered at a meeting, the part of the meeting concerning such individual shall be closed to the public unless such individual requests, and the Board agrees, that the part of the meeting be open to the public.
- (c) The Board may convene in-camera only by proper resolution of the Board. The resolution to hold a pre-scheduled in-camera meeting may be made at the end of the open portion of the meeting. Such resolution shall be recorded in the minutes of the Board. The items to be discussed in-camera will be identified on the in-camera agenda. Governors may question the appropriateness of any agenda item being on the in-camera agenda.

- (d) Governors who are in conflict of interest with respect to the subject matter to be discussed shall be excluded during the in-camera portion of the meeting. The Chair, the President or any Governor may request the presence of appropriate administrators or other persons as a resource to address specific issues. Members will direct such requests to the Chair. Such resource people will be present at Board discussion or debates unless an objection is raised and a vote taken by the Board. While meeting in-camera, the Board may request certain persons to appear for the purpose of providing information to the Board on the topic(s) under discussion.
- (e) All Governors and other persons attending the in-camera meetings shall keep all information, discussions and proceedings at in camera sessions of the Board strictly confidential. Even when the resulting decision is made public, all discussions and all information provided at an in-camera session shall remain confidential unless the Board decides, by resolution, to make the information public.
- (f) Where in-camera discussions lead to the passing of resolutions, the Board will make every effort to make public such decisions as soon as possible after the meeting, taking into consideration the need or requirement for continued confidentiality. Where the in-camera discussions lead to a general policy decision or a decision that may have an immediate effect on the college community, the Board will establish the date for the information to be made public and means by which the information will be released. Minutes will be recorded of any resolutions passed during the in-camera session.
- (g) The Board may, at any time, hold a Governors' retreat, planning session, information session, orientation for new members or any other such events as it deems appropriate. No resolutions shall be passed during these sessions. Such events shall not be open to the public.
- (h) Meetings of committees are not open to the public.

6.06 Adjournments: Any meeting of Governors may be adjourned to any time and from time to time any such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place. Such adjournment may be made notwithstanding that no quorum is present. In the event of an adjournment to a future date, notice of the rescheduled meeting shall be given in the same manner as provided in subsection 6.02.

6.07 Voting:

- (a) Except for votes to amend or adopt By-laws, or to remove a Governor pursuant to section 8, questions arising at any meeting of Governors shall be decided by a majority vote. Votes to amend or adopt By-laws, or to remove a Governor pursuant to section 8, shall require a two-thirds majority. In the case of an equality of votes, the Chair shall have a casting vote.
- (b) All votes at any such meeting shall be taken by ballot, if so demanded by any Governors present; but if no demand be made, the vote shall be taken in the usual way by assent or dissent.
- (c) Unless there is a demand for a recorded vote, a declaration by the Chair that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority, and an entry to that effect in the minutes shall be admissible in evidence as proof, in the absence of evidence to the contrary, of that fact without proof of the number or proportion of votes recorded in favour of or against such resolution. In the absence of the Chair, the Chair's duties may be performed by the Vice Chair or such other External Governor as the Board may from time to time appoint for the purpose.

6.08 Chair of Meeting: In the absence of the Chair, the Chair's duties may be performed by the Vice Chair.

6.09 In the absence of the Chair and the Vice Chair, the Governors present at any meeting shall choose an External Governor to be Chair of the meeting.

7. COMPLIANCE WITH CONFLICT OF INTEREST OBLIGATIONS

7.01 Minister's Binding Policy Directive: The Board and its Governors shall comply with the Policy Directive "Conflict of Interest". Should any provisions in this section be in conflict with this Policy Directive or any further Policy Directives issued by the Minister, the conflicting provision of this section shall be ineffective to the extent of such conflict without invalidating the remaining provisions of this section. Notwithstanding the above, any provisions of this section that exceed the minimum requirements contained in the aforementioned Policy Directive are not in conflict therewith and shall remain in force.

7.02 Annual Declaration: All Governors must complete a Conflict of Interest Disclosure Statement before being appointed. Thereafter, each Governor shall complete a Governor's Declaration, in which the Governor shall agree to comply with the Conflict of Interest Policy, on an annual basis. If before or between annual Declarations, an actual, perceived or potential conflict of interest arises in respect of a

matter not on the agenda of a Board meeting, the affected Governor must bring the matter to the attention of the Chair, who will present the matter to the Board for review and determination at the next meeting of the Board, applying the procedures set out in the Board's Conflict of Interest Policy, with such modifications as the Board considers appropriate in the circumstances. The results will be recorded in the minutes.

7.03 Conflict of Interest Situation: A conflict of interest arises when a Governor's private or personal interest supersedes, competes with, or undermines the Governor's exercise of independent judgment and fulfilment of duty and responsibility. The foregoing could arise from an actual, potential or perceived conflict of interest of a financial or non-financial nature.

7.04 Meeting Procedure:

- (a) At the beginning of each Board and committee meeting, the Chair shall ask for disclosures of any actual, potential or perceived conflicts of interest relating to any agenda item.
- (b) When the agenda item arises in the open portion of a meeting, the Governor with an actual conflict of interest shall withdraw from the meeting for the duration of the discussion, shall not vote on this agenda item, and shall not unduly influence the discussion or voting on this agenda item. The minutes should reflect this.
- (c) If the matter arises during the closed or in-camera portion of a meeting, the Governor should withdraw from the meeting for the duration of the discussion, shall not vote on this agenda item, and shall not unduly influence the discussion or voting on this agenda item. The minutes should reflect this.
- (d) When the conflict of interest is perceived or potential, the Board, in its business judgement, will determine whether the affected Governor should withdraw from the meeting (i) for discussion of the perceived or potential conflict of interest, and (ii) for the discussion and vote on agenda items. The minutes should reflect what takes place.
- (e) In cases where a conflict cannot be avoided, a Governor is to declare a conflict of interest at the earliest opportunity, and the general nature of the conflict and all relevant circumstances. Where a conflict of interest is declared before a Board or committee meeting, the declaration should be made to the Board or committee Chair and the Board is to be informed.
- (f) When a conflict of interest with respect to a matter is discovered after

consideration of the matter by the Board, it must be declared to the Board and appropriately recorded at the first opportunity. If the Board determines that involvement of the Governor with the conflict influenced the decision on the matter, the Board must re-examine the matter, and may rescind, vary or confirm its original decision.

- (g) Where the Governor in conflict, or with a perceived or potential conflict, is the Chair of the Board, the Vice Chair will act as Chair for the purposes of this section. The Vice Chair will also act as Chair of the meeting for that portion of the meeting dealing with the conflict. If the Chair has declared or is found by the Board to have an actual, perceived or potential conflict of interest, the Vice Chair will also chair that portion of the meeting dealing with the item in question.
- (h) Any Governor who perceives another Governor to be in conflict of interest in respect to a matter under consideration by the Board is to raise this concern with the Chair. The Chair, in turn, must discuss the matter with the Governor who is perceived to be in conflict of interest, and, as appropriate, hold further discussions with the Governor who raised the concern. If the discussions do not lead to a resolution, the matter must be brought to the Board. The Board must determine by majority vote whether a conflict of interest exists. The Governor perceived to be in conflict must refrain from voting on the issue of whether a conflict of interest exists.

7.05 Sanctions: Where there has been a failure on the part of a Governor to comply with conflict of interest provisions, unless the failure is the result of a good faith error in judgment, the Board shall:

- (a) issue a verbal reprimand; or
- (b) issue a written reprimand; or
- (c) request the resignation of the Governor; and/or
- (d) remove the Governor through the process outlined in Section 8 and Appendix 2 of this By-law.

7.06 Application: These provisions are applicable to all Governors.

7.07 Quorum: A Governor who has declared or is found to be in a conflict of interest with respect to an agenda item, but was present at the beginning of the meeting, may be counted to determine the presence of a quorum.

8. REMOVAL OF GOVERNORS

8.01 The Board may remove a Governor, other than an External Governor appointed by the LGIC or the President, before the expiration of the Governor's term by a resolution of the Board enacted pursuant to the provisions of Appendix 2 of this By-law.

8.02 If the Board believes that there exist reasons justifying the removal of an External Governor appointed by the LGIC, the Board may set those reasons out in a report to the Minister for referral to the LGIC.

9. REMUNERATION OF GOVERNORS AND COMMITTEE MEMBERS

9.01 Governors serve on the Board without remuneration; however, members of the Board may be reimbursed for reasonable travel, temporary accommodations and meal expenses while engaged in Board business.

9.02 The provisions of subsection 9.01 shall apply equally to all members of committees and sub-committees of the Board.

9.03 Subject to compliance with the provisions of section 7 hereof, where a Governor is employed by or performs services for the College other than as a Governor, or is a member of a firm or shareholder, director or officer of a company which is employed by or performs services for the College, the fact of such person being a Governor shall not disentitle such person or such firm or company, as the case may be, from receiving proper remuneration for such services.

10. PROTECTION OF GOVERNORS AND OFFICERS

10.01 No Liability: Except as otherwise provided in the *ONCA Act*, no Governor or officer of the College shall be liable for the acts, receipts, neglects or defaults of any other Governor or officer or employee, or for any loss, damage or expense happening to the College through the insufficiency or deficiency of title to any property acquired by the College for or on behalf of the College or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the College shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation, including any person with whom or which any moneys, securities or effects shall be lodged or deposited, or for any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any moneys, securities or other assets belonging to the College or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of the person's respective office or trust or in relation thereto unless the same shall happen by or through the person's own wilful neglect or default

or failure to act honestly and in good faith with a view to the best interests of the College; provided that nothing herein shall relieve any Governor or officer of any liability imposed by statute.

10.02 Indemnification by College:

- (a) Every Governor or officer or former Governor or officer of the College or an individual who acts or acted at the request of the college as a director or officer, or in similar capacity, of another entity, shall be indemnified and saved harmless out of the funds of the College from and against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other action or proceeding in which the individual is involved because of that association with the College or other entity.
- (b) The College may advance money to an individual referred to in subsection 10.02(a) for the costs, charges and expenses of an action or proceeding referred to in that subsection, but the individual shall repay the money if the individual does not fulfil the conditions set out in subsection 10.02(c).
- (c) The College shall not indemnify an individual under subsection 10.02(a) unless:
 - (i) The individual acted honestly and in good faith with a view to the best interests of the College or other entity, as the case may be; and
 - (ii) If the matter is a criminal or administrative proceeding that is enforceable by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful.

10.03 Insurance: Subject to the *ONCA*, *OCAAT ACT* and applicable laws, including the *Charities Accounting Act* and the regulations made thereunder, the College may purchase and maintain insurance for the benefit of an individual referred to in Section 10.02, against any liability incurred by that individual in the individual's capacity as a Governor or an officer of the College, or, in the individual's capacity as a Governor or officer, or in a similar capacity, of another entity if the individual acts or acting in that capacity at the College's request.

11. OFFICERS

11.01 Officers: There shall be a Chair, a Vice Chair, a Second Vice Chair, a President, a Secretary and a Treasurer, and such other officers as the Board may determine by resolution from time to time. The Chair and Vice Chair shall be External Governors, and the Chair of the Audit, Finance and Infrastructure Committee shall be the Second Vice Chair. The President is a member of the Board by virtue of office.

11.02 Election: At the June meeting of the Board each year or every two (2) years, the Board shall elect a Chair and Vice Chair from its External Governors. The Governance and Human Resources Committee will make a recommendation to the Board on the Chair and Vice Chair positions. The officers will assume their responsibilities on the 1st of September each year. If the Board shall fail to appoint any or all of such officers by September 1, the incumbents for whom no replacements have been appointed shall continue in office until their successors are appointed except in the case of officers whose term as Governor has expired.

11.03 Remuneration: The Governors may, in accordance with, and subject to the obtaining of such approvals as may be required by law, fix the remuneration (if any) to be paid to officers of the College.

11.04 Removal: All officers, in the absence of agreement to the contrary, shall be subject to the removal from that office of the College by resolution of the Board at any time with or without cause.

11.05 Duties of Officers: The duties of the officers are as follows:

- (a) **Chair:** The Chair shall be elected annually, or every two (2) years, and shall, when present, preside at all meetings of the Board. Together with the Secretary or other officer appointed for the purpose, the Chair shall sign all By-laws of the College and such contracts, documents or instruments in writing as require the Chair's signature. The Chair shall approve the incidental expenses of the President. The Chair or the Chair's designate is the official spokesperson of the Board. The Chair shall also have such other powers and duties as may from time to time be assigned by the Board or as are incidental to the office.
- (b) **Vice Chair:** The Vice Chair shall be elected annually, or every two (2) years, and shall have such powers and perform such duties as may be assigned by the Board. In the absence or inability or refusal to act of the Chair, the Vice Chair shall perform all the duties and have all the powers of the Chair. Where the Vice Chair, or such other External 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 to act of the Chair shall be presumed with reference thereto.

- (c) **Second Vice Chair:** The Second Vice Chair shall be elected annually, or every two (2) years, and shall have such powers and perform such duties as may be assigned by the Board. The Second Vice Chair shall have such powers and duties as may be assigned by the Board. In the absence or inability or refusal to act of the Chair and the Vice Chair, the Second Vice Chair shall perform all the duties and have all the powers of the Chair. Where the Second Vice Chair, or such other External 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 and Vice Chair shall be presumed with reference thereto.
- (d) **President:** The Board shall appoint a President for such term as the Board may consider appropriate from time to time and hereby delegates to the President full authority to manage and direct the business and affairs of the College, except such matters and duties as by law must be transacted or performed by the Board and subject to the executive constraints as may be imposed by the Board from time to time, and further to employ and discharge agents and employees of the College, to whom the President may delegate any lesser power.
- (e) **Secretary:** The Secretary shall be the Corporate Secretary of the College. The Secretary shall:
 - (i) attend all meetings of the Board and record, or cause to be recorded, all facts and minutes of all proceedings in the books kept for that purpose;
 - (ii) give, or cause to be given, all notices required to be given to Governors and to the public;
 - (iii) 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 which shall be delivered up only when authorized by a resolution of the Board; and
 - (iv) perform such other duties as may from time to time be determined by the Board.
- (f) **Treasurer:** The Treasurer shall be the Chair of the Audit, Finance & Infrastructure Committee. The Treasurer shall:
 - (i) in accordance with the *OCAAT Act* and the Policy Directives and any other applicable statute or regulation, keep full and accurate

accounts of all receipts and disbursements of the College in proper books of account;

- (ii) deposit all moneys or other valuable effects in the name and to the credit of the College in such banks as may from time to time be designated by the Board;
 - (iii) disburse the funds of the College under the direction of the Board, taking proper vouchers therefor;
 - (iv) provide whenever required by the Board an account of the financial position of the College;
 - (v) co-operate with the auditors appointed by the Board during any audit of the accounts of the College; and
 - (vi) perform such other duties as may from time to time be determined by the Board.
- (g) **Other Officers:** Subject to the provisions of any applicable statute or regulation, the Board will determine the requirement for and the duties of any and all other officers of the College.

11.06 Vacancies:

- (a) If the office of the Chair becomes vacant, the Vice Chair shall become the Chair, the Second Vice Chair shall become the Vice Chair, and the Board shall appoint an External Governor to the position of Chair of the Audit, Finance & Infrastructure Committee (and by virtue thereof, to the position of Second Vice Chair and Treasurer). If the position of the Chair of the Audit, Finance & Infrastructure Committee becomes vacant, the Board shall appoint an External Governor to that position.
- (b) If the office of the President becomes vacant, such vacancy shall be filled as the Board may appoint.

11.07 Delegation of Duties of Officers: If any officer is absent or unable to act, or if the Board determines it to be necessary for any reason, the Board may, for the time being, delegate all or any of the powers of such officer to any other officer, or to any External Governor.

12. EXECUTION OF DOCUMENTS

12.01 Cheques, Drafts, Notes, Etc.: All cheques, drafts, bills of exchange or other

orders for the payment of money and all notes or other evidence of indebtedness issued in the name of the College shall be signed by such officer or officers or agent or agents, whether or not officers of the College, and in such manner as the Board may from time to time designate by resolution.

12.02 Contracts, Documents or Instruments in Writing:

- (a) The Board may at any time by resolution direct the manner in which, and the person or persons by whom, any instrument, contract or obligations of the College may or shall be executed.
- (b) It is the responsibility of the signing officer as defined in subsection 12.02(a) hereof, to ensure that the transaction is in accordance with all applicable law, Policy Directives and Board policies, and to obtain Board approval when required.
- (c) The seal of the College may, when required, be affixed to contracts, documents or instruments in writing signed by signing officers as defined in subsection 12.02(a) hereof.
- (d) The term "contracts, documents or instruments in writing" as used herein shall include deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments, releases, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of shares, bonds, debentures or other securities and all paper writings.
- (e) In particular, without limiting the generality of the foregoing, the President and Treasurer are authorized to sell, assign, transfer, exchange, convert or convey any and all shares, bonds, debentures, rights, warrants or other securities owned by or registered in the name of the College in its individual capacity or any other capacity or as trustee or otherwise and to sign and execute (under the corporate seal of the College or otherwise) all assignments, transfers, conveyances, powers of attorney and other instruments that may be necessary for the purpose of selling, assigning, transferring, exchanging, converting or conveying any such shares, bonds, debentures, rights, warrants or other securities.

13. BOOKS AND RECORDS

13.01 The Board shall ensure that all necessary books and records of the College required by the By-laws or by any applicable statute or law are regularly and properly kept.

13.02 Without limiting the generality of subsection 13.01 above, the Board shall keep minutes and records of its proceedings that accurately reflect the proceedings of the Board.

13.03 The By-laws:

- (a) shall be open to examination by the public during the normal office hours of the College; and
- (b) whenever possible, shall be available to the public at no charge on the College's website.

14. COMMITTEES

14.01 The Board may, from time to time, appoint committees, consisting of such persons as may be appointed members thereof by the Board. All committees shall act in an advisory capacity only except where the Board approves the delegation of authority to a committee to act on behalf of the College and only within the scope of such delegated authority. Standing Committees are permanent committees of the Board and their composition and mandate are defined in the By-laws.

Standing Committees may strike sub-committees, task forces or working groups comprised of its members and staff (as necessary) strictly for purposes of fulfilling their mandate. Striking of a sub-committee will require a majority vote on the resolution, duly moved and seconded, which will include the membership of the sub-committee and the purpose including specific reference to the subsection of establishment of the Standing Committee per By-law No. 1. All sub-committees shall be automatically disbanded upon final recommendation to the standing committee, unless otherwise approved.

14.02 The Board may also, from time to time, appoint ad hoc committees, consisting of such persons as may be appointed members thereof by the Board, to act in an advisory capacity to the Board in connection with a particular issue referred to it. An ad hoc committee has a term of the lesser of one year or the time required until its assigned mandate has been completed, and is renewable for a further term if required by the Board.

14.03 Each Standing Committee member shall be appointed by the Board for a term of one (1) year, and such term may be extended for one (1) year at a time while the Standing Committee member continues as a Governor. The Chair of the Board, by virtue of office, shall be a member of each committee, unless otherwise stipulated. Membership of the Standing Committees shall follow the rules outlined in 15.01 (b) and 15.02 (b) unless waived by a vote of not less than 2/3 of the Board in favour.

14.04 Any Governor shall have the right to ask any relevant committee to consider any matter that falls within that committee's purposes as outlined in Section 15 of this by-law.

14.05 The Board may fill any vacancies occurring from time to time in committees and may abolish and from time to time re-appoint any committee.

14.06 Minutes of the proceedings of any committee shall be recorded by, or caused to be recorded by, the Secretary. Each committee shall report to the Board and may be required to provide a report to the Board on its deliberations.

14.07 Unless otherwise provided by the Board, matters which fall within the defined mandate of a Standing Committee shall be considered fully by that committee prior to that matter being presented to the Board for its consideration.

15. STANDING COMMITTEES:

15.01 Governance and Human Resources Committee:

- (a) **Purposes:** The Governance and Human Resources Committee is established to:
 - (i) To advise the Board on matters of Board governance and human resources, including without limitation:
 - (ii) To advise the Board in respect of compliance with the Ministry of Colleges and Universities (or a successor Ministry) and Board policy relating to governance.
 - (iii) To address the recruitment, selection and re-appointment of Governors including those who are:
 - a) Replacing retiring Governors;
 - b) Continuing to a second term;
 - c) Willing to allow their name to stand for election by the full Board for the positions of Chair and Vice Chair; and
 - d) Being named as Board committee members and Chairs based on the Governors' skills and interests.
 - (iv) To review Board skills and determine preferred skill requirements

of new Governors.

- (v) To recruit and receive nominations of individuals to be elected or appointed to the Board.
- (vi) To conduct interviews and make recommendations to the Board regarding nominations and reappointments.
- (vii) To develop and maintain a current list of Governor candidates with appropriate profiles.
- (viii) To make recommendations to the Board for the election of Chair and Vice Chair of the Board.
- (ix) To make recommendations to the Board for committee membership and committee chairs.
- (x) To develop a pool of interested and suitable Governor candidates.
- (xi) To nominate candidates for Governor to the Board, or the LGIC, as the case may be,
- (xii) To recommend governor mentors to new Governors,
- (xiii) To recommend new Governor orientation,
- (xiv) To make recommendations regarding the composition of various committees and selection of Committee Chairs, which should be informed and guided by several considerations including: i) the particular expertise, skills and interests of all Governors; ii) the need for well-rounded committees to assist the operation of the Board; and iii) the implementation of appropriate succession planning to ensure continuity in Board operations,
- (xv) To review Board performance as a means of continuous improvement.
- (xvi) To address matters relating to college collective agreements and human resource issues.
- (xvii) To address other sensitive or confidential college matters as appropriate from time to time.
- (xviii) To carry out special duties with respect to the President:

- a) To review the President's objectives and evaluate the President's performance for recommendation to the Board;
 - b) To negotiate the President's contract or amendments to such contract, including annual compensation for recommendation to the Board and to address such other matters relating to executive compensation as may be required by law;
 - c) To develop a method for evaluation of the President for recommendation to the Board;
 - d) To provide guidance to the President;
 - e) To develop and review a succession plan for the President; and
 - f) To oversee compliance with the Board's budget.
- (xix) To act as the executive committee of the Board, which includes delegated Board authority to make decisions on matters requiring urgent attention when the calling of a full Board meeting is impracticable or not feasible.
- (b) **Membership:** The Governance and Human Resources Committee shall consist of:
- (i) the Chair of the Board;
 - (ii) the Vice Chair of the Board;
 - (iii) any past Chair, if still a member of the Board;
 - (iv) External Governors who have served on the Board for at least 3 years and who are appointed by the Board to the committee;
 - (v) the President.
- (c) **Quorum:** The quorum for a meeting of the Governance and Human Resources Committee shall be a simple majority of its members.
- (d) **Meetings:** The Governance and Human Resources Committee shall meet a minimum of four (4) times per year. Special meetings may be

requested by any member of the Committee. All Governors are welcome to attend the Governance and Human Resources Committee meetings except for those meetings, or portions thereof, at which the Governance and Human Resources Committee has determined to restrict attendance to the membership of the Governance and Human Resources Committee.

- (e) **Chair:** The Vice Chair of the Board shall be the Chair of the Governance and Human Resources Committee.

15.02 Audit, Finance & Infrastructure Committee:

- (a) **Purposes:** The Audit, Finance & Infrastructure Committee is established for the following purposes:
 - (i) To review and recommend to the Board for approval, the annual budget which will conform to the legislative and regulatory requirements of the *OCAAT Act* and reflect the requirements of the College's strategic plan.
 - (ii) To ensure that a complete, detailed review of revenue and expenditures is performed by the College and accompanied by a projected year-end financial position. The committee will monitor the frequency of reviews during the fiscal year.
 - (iii) To review all financial reports prior to submission to the Board.
 - (iv) To monitor the College reserves (accumulated surplus) and review and recommend to the Board for approval, the level and composition of the reserves.
 - (v) To ensure adequacy of financial management and control systems in relation to requirements and standards established by legislation, regulation, and accepted prudent and ethical practices for the education/college sector in Ontario. The Audit, Finance & Infrastructure Committee will fulfill this responsibility by conducting the following activities at a minimum:
 - 1) Monitoring financial management and control systems established by management including monitoring the adequacy and effectiveness of internal controls over the accounting and financial reporting systems;
 - 2) Reviewing auditor's fees and recommending the appointment of

the external auditor;

- 3) Monitoring external auditor coverage/service to include but not be limited to any changes in accounting practices or policies; and
 - 4) Reviewing the auditor's performance and monitoring the external audit function to ensure that it has been effectively carried out and that any matter that the external auditors wish to bring to the attention of the Board has been given adequate attention.
- (vi) To ensure the efficacy of all aspects of the College in relation to requirements and standards established by legislation, regulation, and accepted prudent and ethical practices for the education/college sector in Ontario. Advice to the Board will be presented within the context of the College's strategic directions as approved by the Board.
- (vii) To review and recommend to the Board for approval, the following specific College business matters:
- 1) Student tuition and compulsory ancillary fees or increases to current fees;
 - 2) Annual insurance portfolio;
 - 3) Investment policies and annual investment report;
 - 4) Contracts, leases and any major capital building projects where the total value exceeds \$2.5 million or consulting service contracts exceeding \$1.0 million;
 - 5) Resolutions to seek approval for transactions requiring such approval under Section 28 of the *Financial Administration Act* (Ontario) or successor legislation; and
 - 6) Resolutions for new banking services.
- (viii) To review and recommend to the Board and the Ministry of Colleges and Universities (or a successor Ministry), for approval, all proposed sales and purchases of real estate.
- (ix) To monitor progress in the implementation of strategic directives and achievement of College objectives.

- (x) To review and present the audited year-end financial statements to the Board for approval.
- (xi) To perform other duties and exercise such other powers as may, from time to time, be assigned to it by the Board.
- (xii) To oversee the internal audit function by:
 - 1) Reviewing and approving an "Internal Audit Charter" on an annual basis;
 - 2) Reviewing and approving an annual internal audit work plans and any subsequent changes;
 - 3) Reviewing internal audit reports and follow up reports, and approving management action plans; and
 - 4) Satisfying itself as to internal audit independence, objectivity and effectiveness, and ensuring there are no unjustified restrictions or limitations on audit activities.
- (xiii) To oversee the enterprise risk management function by:
 - 1) Providing oversight on behalf of the Board of the College's risk management processes; and
 - 2) Reviewing periodic and annual reports relating to the College-wide risk management process for identified risks and reviewing the effectiveness of control systems used to monitor the risks.
- (b) **Membership:** A majority of the members of the Audit, Finance & Infrastructure Committee shall be independent Governors who are not officers or employees of the College and shall include:
 - (i) the Chair of the Board;
 - (ii) the President;
 - (iii) Governors who have served at least 2 years on the Board and who are appointed by the Board to the Committee; and
 - (iv) Governors who have financial expertise, irrespective of length of service on the Board, and who are appointed by the Board to the committee.

- (c) **Quorum:** A quorum for a meeting of the Audit, Finance & Infrastructure Committee shall be a simple majority of its members.
- (d) **Meetings:** The Audit, Finance & Infrastructure Committee shall meet a minimum of four (4) times per year. Special meetings may be requested by any member of the Committee. The external auditors shall attend meetings at the request of the Chair, and in any event no less than two meetings per year. The internal auditor shall attend every meeting, including a private session with the committee at every meeting.
- (e) **Chair:** The Chair of the Audit, Finance & Infrastructure Committee shall be an External Governor who has financial expertise and who is appointed to that position by the Board.

16. PROGRAM ADVISORY COMMITTEES

16.01 In accordance with the *OCAAT Act* and the Policy Directive – “Framework for Programs of Instruction”, the College hereby establishes Program Advisory Committees, the terms of reference, structure and composition and procedures of which are set out in Appendix 3 to this By-law.

17. ADVISORY COLLEGE COUNCIL

17.01 In accordance with the *OCAAT Act* and the Policy Directive – “Governance and Accountability Framework”, the College hereby establishes an Advisory College Council, known at the College as the President’s Advisory Council, the mandate, composition, membership and structure of which are established in Appendix 4 to this By-law.

18. MEMBERS

18.01 The Governors, appointed in accordance with the *OCAAT Act* and these By-laws, shall constitute the members of the College.

18.02 The interest of a member is not transferable and lapses and ceases to exist when such Governor ceases to be a member of the Board by resignation, expiration of term of office as a Governor or otherwise in accordance with these By-laws or as provided by the *OCAAAT Act*, any Policy Directive, the *Corporations Act* or any other applicable law.

19. MEETINGS OF MEMBERS

19.01 Annual and Other General Meetings: For purposes of compliance with the *ONCA*, the meeting of the Board at which the audited financial statements are received

will be deemed to be the annual general meeting of the members. The members may consider and transact any business either special or general without any notice thereof at any meeting of the members. The Board or the Chair or Vice Chair shall have power to call at any time a general meeting of the members of the College.

19.02 The provisions of sections 6 and 7 of this By-law shall apply to the annual general meeting of the members, except as noted below.

19.03 Notice: Members shall be notified not less than ten (10) days prior to the time fixed for the holding of any such meeting; provided always that any meeting of members may be held for any purpose at any date and time and any place within Ontario without notice if all the members are present in person at the meeting or if all the absent members waive notice thereof or otherwise signify in writing their consent to such meeting being held in their absence. Such waiver of notice or consent may be given either before or after the meeting. No error or omission in giving notice of any annual or general meeting or any adjourned meeting, whether annual or general, of the members of the College shall invalidate such meeting or make void any proceedings taken thereat and any members may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.

19.04 Polls: If at any meeting a poll is demanded on the election of a Chair of the meeting or on the question of adjournment it shall be taken forthwith without adjournment. If a poll is demanded on any other question, it shall be taken in such manner and either at once or later at the meeting or after adjournment as the Chair of the meeting directs. The result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A demand for a poll may be withdrawn.

20. FINANCIAL MATTERS

20.01 Fiscal Year: The fiscal year of the College shall terminate on the 31st day of March in each year.

20.02 Budget: In accordance with the *OCAAT Act*, the Board shall not approve a budget projecting an accumulated deficit without the written approval of the Minister responsible for administering the *OCAAT Act*.

20.03 Auditors: The Board shall appoint an auditor licensed under the *Public Accounting Act, 2004* (Ontario) or its successor Act, who shall not be a member of the Board or a partner or an employee of a member of the Board, to audit the accounts and transactions of the College. The auditor in office shall continue in office until a successor is appointed.

20.04 Reporting: In accordance with the *OCAAT Act* and Policy Directives, the Board shall prepare a strategic plan, an annual business plan and an annual report, including audited financial statements. These reports shall be made available to the public and submitted to the Minister in accordance with and by the dates specified in the applicable Policy Directives. The Board shall compile KPIs and provide such indicators to the Minister in accordance with the *OCAAT Act* and Policy Directives.

20.05 Borrowing: The College may borrow as permitted by applicable law.

21. AMENDMENTS TO BY-LAWS

21.01 All By-laws may be amended after notice is given at any meeting of the Board. The proposed amendment may then be presented at the meeting following such notice and a two-thirds majority of the Governors present shall be required to pass the amendment. Amendments so made shall be effective when approved by the Board.

22. CONFLICT

22.01 The College having been established pursuant to the *OCAAT Act*, this By-law is in addition to the *OCAAT Act* and Policy Directives. Should any provision in this By-law or any further By-laws enacted by the Board conflict with the *OCAAT Act*, or Policy Directives, the conflicting provision shall be ineffective to the extent of such conflict without invalidating the remaining provisions in the By-laws.

22.02 The *OCAAT Act* identifies each college of applied arts and technology as a Crown agency and as a corporation without share capital. The College is subject to the provisions of *ONCA*, except where limited by the *OCAAT Act* or the Policy Directives. The College is also subject to provincial legislation including, but not limited to, the *Financial Administration Act*, *Ombudsman Act* and *Freedom of Information and Protection of Privacy Act* and any other provincial and federal legislation and regulations applicable to non-share corporations and agencies of the Crown. Should any provision in this By-law or any further By-laws enacted by the Board conflict with any legislation or regulations judged to be applicable to the College, the conflicting provision shall be ineffective to the extent of such conflict without invalidating the remaining provisions in the said By-laws.

ENACTED BY THE BOARD OF GOVERNORS and sealed with the corporate seal the 16th day of November, 2022.

Chair

Secretary

Appendix 1 to By-law No. 1

Election of Internal Governors

1. DEFINITIONS

In this appendix:

"academic staff member" means a person who is employed by the College as a professor, instructor, counsellor or librarian;

"administrative staff member" means a person who is employed by the College and who is not an academic staff member, a support staff member or a student;

"municipality" means the corporation of a metropolitan, regional or district municipality, a county, city, town, village, township or improvement district;

"program of instruction", or "program of studies" means a course, or a group of related courses leading to a diploma, certificate or other document awarded by the Board;

"student" means a person who is enrolled in a program of instruction in the College;

"support staff member" means a person who is employed by the College as a support staff union member in either a Full-Time or Part-Time capacity.

2. ELECTION PROCEDURES

2.1 The election procedures for the academic staff member, administrative staff member and support staff member to be elected to the Board pursuant to the provisions of Section 4.03 of By-law No. 1 enacted by the College shall be the procedures set out in Schedule A which is attached hereto and which forms part of this By-law.

2.2 The election procedure for the election of a student elected to the Board pursuant to the provisions of Section 4.03 of By-law No. 1 enacted by the College shall be that procedure established in Schedule B which is attached hereto and which forms part of this By-law.

3. CERTIFICATION

3.1 The relevant returning officer for each constituency group elected to the Board

in accordance with the provisions of Schedules A and B attached hereto shall, within thirty (30) days after completion of the election, provide to the Board a certification that the election of the Internal Governor was validly constituted and duly and properly completed and thereby the Internal Governor has been duly elected.

4. INTERPRETATION

4.1 If any provision of this Appendix is in conflict with the provisions of By-law No. 1 of the Board, the provisions of By-law No. 1 shall govern and the provisions of this Appendix shall be amended accordingly to the extent of such conflict.

SCHEDULE A

THE MOHAWK COLLEGE OF APPLIED ARTS AND TECHNOLOGY

ELECTION PROCEDURES

FOR

INTERNAL MEMBERS OF THE BOARD

(ACADEMIC, ADMINISTRATIVE, SUPPORT STAFF)

1. Defined Constituencies:

These Election Procedures shall apply to the following three (3) constituencies, the definitions of which follow: Academic Staff, Administrative Staff, and Support Staff.

"academic staff member" means a person who is employed by the College as a professor, instructor, counsellor or librarian;

"administrative staff member" means a person who is employed by the College and who is not an academic staff member, a support staff member or a full-time student;

"full-time staff member" means an employee employed by the College who regularly works greater than 24 hours per week, either on an ongoing basis or continuous contract.;

"part-time staff member" means an employee employed by the College who regularly works 24 hours per week or less, either on a contractual or ongoing basis;

"support staff member" means a person who is employed by the College as a support staff union member in either a Full-Time or Part-Time capacity.

Only full-time staff members are eligible to stand for election. Eligibility will be based on an employee's home position; as opposed to a secondment position.

2. Nominations

The election process is initiated each year by the Board through the Corporate Secretary who is responsible for issuing a call for nominations. The nomination process will be communicated electronically through MyMohawk (or successor system). It is the responsibility of all staff, including those who are absent from the work place because of short or long term disability, maternity leave, sabbatical or other valid reason, to access the information via MyMohawk (or successor system). The call for nominations shall be publicized not later than the first Friday of February using a Targeted Announcement through MyMohawk (or successor system).

Nominations require that the nominee and the proposer be members of the same constituent group from which the member is to be elected; nominations must be seconded by at least one other member of the group. A member of a constituent group can propose or second a nomination for more than one candidate.

Each candidate must complete and forward a Nomination Form (available electronically, on MyMohawk (or successor system)) to the Corporate Secretary through the Office of the President, C115, Fennell Campus on or before the time at which nominations close.

If only one nomination has been received at the close of nominations, that individual will be acclaimed. The Corporate Secretary is responsible for notifying the President, the candidate and the constituent group of the acclamation. If no nominations are received, the nomination period will be extended by three days. In such a situation, the Corporate Secretary will inform the College community of the lack of nominations and encourage eligible constituents to stand for election.

As a standing practice throughout the election process, the Corporate Secretary will serve as the designate for the Chair of the Governance and Human Resources Committee of the Board; the Corporate Secretary will hereinafter be referred to as the "Chief Electoral Officer" of the election process. The Chief Electoral Officer will certify nominees, proposers, and seconders as bona fide members of their constituent groups and shall notify the nominees, proposers and seconders in writing if the nomination is defective in any respect. Only nominees whose nominations are certified by the Chief Electoral Officer shall be included on the ballot. The Chief Electoral Officer shall also certify compliance with By-law No. 1 so that each nominee shall not have exceeded the maximum term of office stipulated in Section 4.05 of By-law No. 1. A candidate's Information Package including details on the role of the Governor, the election process, and campaign protocols will be distributed by the Corporate Secretary to each candidate. This package will also include a copy of this "Election Procedures for Internal Governors (Academic, Administration, and Support Staff)."

Each candidate whose nomination has been certified may produce one 8.5 x 11 information sheet for posting under the BoG Election channel on MyMohawk (or successor system).

3. Voting

Voting will be done via MyMohawk (or successor system). It is the responsibility of all staff, including those who are absent from the workplace because of short or long term disability, maternity leave, sabbatical or other valid reason, to access the information via MyMohawk (or successor system). An electorate list will be made available by Human Resources and verified through Banner.

All staff members, including part-time staff members, are eligible to vote. An employee's constituent group will be based on their home position; as opposed to a secondment position. Eligible voters will be allowed to vote only once. In the event of a power failure or a College emergency, which interrupts the voting process for a period longer than one hour, the voting period will be extended by a period of time determined by the President.

The results of voting, done through an electronic system provided by the College, will be tabulated electronically.

In the event of a tie, the Chief Electoral Officer will conduct a draw by lot. Each of the candidates will have identified a scrutineer to observe the tie-breaking draw. Representatives from the applicable Academic and Support Staff unions and the Mohawk College Administrative Staff Association can also be present at the draw if they choose. To allow time for notification of the candidates and the eligible observers of the need for a tie-breaking draw, the draw will be held between one and 24 hours after the close of the voting in the presence of the scrutineers and other individuals identified above who are eligible to be present either in person or virtually.

The Chief Electoral Officer will notify the President and the Chair of the Governance and Human Resources Committee of the results before any public announcement is made. The Chief Electoral Officer will first notify the successful candidate, and then make the results of the election known to the unsuccessful candidates before the public announcement. Election results will then be posted on MyMohawk (or successor system).

4. Schedule

Subject to the provisions of By-law No. 1 and the *OCAAT Act* and the Regulations, the election for the Academic, Administrative, and Support Staff Internal Governors is held annually in the fourth week of March. Since each Internal Governor is elected for a three year term, the annual election should, in normal circumstances, be for only one constituent group, rotating on a three (3) year cycle. In the event of an emergency situation, labour dispute or other occurrence which compromises or threatens to compromise the normal conduct of the election process, the President, in consultation with the Chair, will temporarily suspend the election process at any stage until the situation has been resolved and amend the schedule detailed below to ensure appropriate conduct of the remaining stages of the election process.

Nominations Open: Monday of the last week of February.

Nominations Close: 4:30 p.m. Friday of the first week in March.

Campaigning: Second and third weeks of March.

Elections through MyMohawk (or successor system): Monday, Tuesday and Wednesday in the fourth week of March, immediately following the end of the campaign.

Deadline for Electronic Voting Submission: 4:30 p.m. of the Wednesday designated as the last day for electronic voting.

Notification of Candidates: Following tabulation of the votes on the last day of electronic voting.

Public Announcement of Results through MyMohawk (or successor system): To the extent practicable under the circumstances, the work day following the tabulation of votes.

5. Disputes

Disputes relating to the ballot count are resolved by direct appeal in writing to the Chair of the Board within ten (10) days after the count. Where this appeal is not satisfactory in the opinion of the appealing party, the Governance and Human Resources Committee of the Board will make a final and binding determination of the issue within ten (10) days after the decision of the Chair of the Board.

6. Term

Subject to the provisions of the *OCAAT Act* and section 7 below, the term of the

appointment is for three years (September 1 to August 31). A member of the Board shall not serve more than six (6) years consecutively, provided that on the expiration of two (2) years after having served on the Board of Governors for six (6) consecutive years a person shall again be eligible for election to the Board.

7. Mid-Term Vacancies

For mid-term vacancies, an election will be held within three (3) months of the vacancy and shall be conducted in the manner aforesaid.

The term of a member elected to fill a vacancy:

- (i) commences on the date of election;
- (ii) subject to subsection (iii) hereof, shall be for a three (3) year term; and
- (iii) shall terminate on August 31 of the year in which the term ends.

Regardless of the month in which the election occurs, the term shall be considered to have started on that September 1st immediately preceding the election and the three (3) year term will be deemed to be calculated from that date, always ending on August 31st.

If a vacancy occurs in the last six (6) months of the Internal Governor's term, the position will remain vacant until the next election.

SCHEDULE B

THE MOHAWK COLLEGE OF APPLIED ARTS AND TECHNOLOGY

ELECTION PROCEDURES

FOR

THE STUDENT GOVERNOR

1. Eligibility:

All nominees for election to the Board as the student Governor must be students who are:

- enrolled in a diploma/degree program which has been approved as a post-secondary program; or
- enrolled in a course(s) in an approved continuing education program leading to a diploma or certificate of the College; or
- enrolled in an approved adult training or apprenticeship program.

The student Governor must be a registered student in one of the above-mentioned programs/courses when taking office on September 1st in the year of election and throughout the Governor's term, subject to the provisions of Section 4.05(d) of By-law No. 1.

In addition, candidates for nomination should possess the customary generic board membership skills to participate in policy formulation, to debate and discuss issues openly and fairly, to determine strategic direction and set goals, to allocate scarce resources to competing demands, to monitor operations and performance, to assess projects and proposals, to critique and improve the Board's effectiveness, to contribute ideas and suggestions, etc.

2. Nominations

Nomination will take place in the winter semester of each calendar year, at a time that does not conflict with the Mohawk Students' Association elections.

The Nomination period will last for 19 days. Each candidate must complete and forward a Nomination Form, with the Governor's Questionnaire, as prescribed by the Chief Returning Officer to any Student Life Office on or before the time at which nominations close.

All candidates must be nominated by at least two (2) other students and are required to submit twenty-five (25) signatures of support.

The Chief Returning Officer (hereinafter called the "CRO") shall be a College employee appointed by the Vice President, Student & International . The CRO will certify nominees, proposers, and seconders as bona fide students of the College and shall notify the nominees, proposers and seconders in writing if the nomination is defective in any respect. Only nominees whose nominations are certified by the CRO shall be included on the ballot. The CRO shall also certify compliance with By-law No. 1 so that each nominee shall not have exceeded the maximum term of office stipulated in Section 4.05(d) of By-law No. 1.

Candidates will meet with the CRO the week after nominations close to review the election procedures. Failure to attend the All-Candidates meeting will result in disqualification unless a valid reason is submitted in writing to the CRO within 2 working days. Some examples of valid reasons for missing the All-Candidates meeting include: academic responsibility, varsity events, family situation, traffic problem, inclement weather, etc. The CRO has the final decision on this matter.

3. Nomination Extensions

If an election is not declared or a candidate is not acclaimed at the close of nominations, the nomination deadline will be extended for five (5) working days. If a nomination is not received after the extension date, a candidate will be chosen through an interview process. The selection committee would include the Mohawk Student's Association ("MSA") President (or designate), the student Governor holding office, and the Vice President, Students & International.

4. Campaigning

Campaigning will take place during the campaign period to be designated annually by the College for that purpose. Campaigning methods are left to the discretion of the candidates. However,

- campaigning must not damage the reputation or property of the

College; and

- slander, libel and unethical campaigning are forbidden and are grounds for disqualification. The CRO shall have the sole discretion to determine whether disqualification is warranted.

Candidates must campaign in the manner prescribed in the Campaign Procedures published by Student Life. Campaign material may not be posted earlier than 7:00 am on the designated Saturday and must be removed by 5:00pm on the Wednesday taking place eleven days later. Candidates who fail to comply with these requirements may be charged an amount determined by the CRO to remove these materials, or may be disqualified from the election.

Candidates and their campaign staff found defacing, damaging or removing campaign material belonging to another candidate may be subject to immediate disqualification by the CRO.

5. Election

The election will be held on the Monday, Tuesday, Wednesday and Thursday immediately following the end of the campaign. Voting will be done through an electronic voting system. Students unable to access the electronic voting system may vote at the Student Life Office at their Campus during the hours of 8:30 am to 4:30 pm. Candidates are not allowed to loiter near the polling stations during the election. In addition, candidates are not allowed to solicit votes by any means outside of the stated campaign dates.

6. Voting

Student Life will provide general polling stations at the Fennell, IAHS and Stoney Creek Campuses for students unable to access the electronic voting system.

An electorate list is available electronically and can be verified through Banner. At the polling stations, eligible voters must present a validated Mohawk College One Card. Students without a photo Mohawk College One Card must produce a piece of photo identification in addition to their Mohawk College One Card. For students voting electronically, eligibility to vote will be verified by Banner.

The CRO will be responsible for counting of paper ballots in the presence of the scrutineers; the CRO is also responsible for determining what constitutes

a spoiled ballot. Each candidate may appoint one qualified scrutineer (to be submitted with the Nomination Form) to view the tabulation of votes. Scrutineers may challenge any ballot at the time of ballot counting.

Returning Officers are responsible for collecting results, which will be confirmed by the CRO. Official election results will be posted on MyMohawk (or successor system) within 24 hours of the close of the election.

7. Disputes

Complaints lodged against a candidate during campaigning or voting periods will be resolved, within three (3) working days of the election, by the Returning Officers. Following the decision by the Returning Officer(s), complainants have the right of direct appeal to the CRO and Vice President, Student and Alumni Services. All complaints and appeals must be made in writing. In response to an appeal, the CRO will involve the Elections Committee and complete an investigation through due process before any action or ruling is made. The Elections Committee will include the CRO, two MSA board members not involved in the elections process and one College employee. Meetings will be called at the discretion of the CRO to deal with any issues that may arise. The Committee will offer input and guidance, but all decisions will remain the responsibility of the CRO. Decisions of the CRO are final.

8. Term of Office

The term of office is one year from September 1 each year to August 31. The student Governor is eligible for re-election (see Eligibility Guidelines) for a total of four consecutive one-year terms. A student Governor who graduates prior to the expiration of the Governor's term may complete the Governor's term of office.

9. Mid-Term Vacancies

Where a mid-term vacancy arises, the runner-up in the election will be deemed elected to complete the remainder of the term, unless the runner-up is not available or if the vacancy occurs more than halfway through the term. In these cases, a candidate will be chosen through an interview process. The selection committee would include the MSA President (or designate), the student Governor leaving the position, and the Vice President, Students, International & Alumni.

The CRO may, after an investigation, disqualify a candidate for breach of

election rules and procedures. Interpretation of the above procedures is the responsibility of the CRO.

All deadlines are final. No extensions will be given.

APPENDIX 2 TO BY-LAW NO. 1

REMOVAL OF A GOVERNOR

1. Section 8.01 of the By-law provides as follows:

The Board may remove a Governor, other than an External Governor appointed by the LGIC or the President, from the Board before the expiration of the Governor's term by a resolution of the Board enacted pursuant to the provisions of Appendix 2 of this By-law.
2. Each Governor, in exercising the Governor's powers and discharging the Governor's duties, shall:
 - (a) act honestly and in good faith with a view to the best interests of the College ("fiduciary duty"); and
 - (b) among other things, exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances ("standard of care").
3. The office of a Governor may be vacated by a resolution of the Board if:
 - (a) the Governor fails to comply with applicable legislation or the College's By-laws or policies including, without limitation, the confidentiality and conflict of interest provisions contained in this By-law;
 - (b) the Governor breaches the Governor's fiduciary duty or standard of care owing to the College; or
 - (c) at a special meeting of the Board, called for that purpose, a resolution is passed by a margin that reflects an affirmative vote of at least two-thirds (2/3) of the votes cast by the Governors removing a Governor before the expiration of the Governor's term of office based on a breakdown in the relationship of trust and confidence and of mutual respect between the Governor and other members of the Board.
4. Prior to a Governor being removed from the Board pursuant to Section 3, such Governor will be advised of the Board's concerns and shall have an opportunity to address the Board before the Board makes its decision in an in-camera meeting.

5. Any Governor who has concerns regarding the conduct of a fellow Governor may discuss the matter with the Chair. The Chair may discuss the matter with the Governance and Human Resources Committee. The Chair, either alone or through the Governance and Human Resources Committee, may discuss the matter with the Governor, explaining why the conduct is unacceptable and what steps may be taken by the Board under this Appendix to address them if the conduct is not remedied.
6. Within ten (10) days of the decision by the Board to remove a Governor, the Governance and Human Resources Committee shall review the decision. The review by the Governance and Human Resources Committee shall be limited to the following:
 - a) was the Governor removed for a reason established in this Appendix 2; and
 - b) was the procedure used to remove the Governor in compliance with this Appendix 2.

The review shall not include a review of whether the decision of the Board was correct.

The review process by the Governance and Human Resources Committee shall include a requirement that the Chair of the Board and the President sign a written attestation that the removal process was carried out in accordance with the By-laws. Upon its completion of the review, the Governance and Human Resources Committee shall issue a written report to the Board and the Governor who has been removed no later than thirty (30) days following the completion of the review.

APPENDIX 3 TO BY-LAW NO. 1

Program Advisory Committees

1. Terms of Reference

1.1 Program Advisory Committees will support the mission, vision and values of the College and advise the President, Deans, Program Chairs and other College officials on:

- i) maintaining and enhancing the relevance of the College's program offerings;
- ii) maintaining and enhancing program standards; and
- iii) maintaining and enhancing the experience of students within the College's programs.

1.2 Program Advisory Committees will:

- i) assist the College to develop, monitor, assess and change programs of studies;
- ii) assist the College to validate measurable learning outcomes of a program of studies;
- iii) assist the College to identify skills and characteristics of graduates required by particular professions, industries, businesses, sectors or services;
- iv) advise the College on developments, trends and future directions of particular professions, industries, businesses, sectors or services;
- v) advise the College on the state of equipment, labs, shops and other facilities and assist, as appropriate, in their renewal;
- vi) assist the College to forecast demand for graduates;
- vii) assist the College to identify student work placements and co-op opportunities; and
- viii) assist the College to develop partnerships and training opportunities.

2. Structure and Composition

- 2.1 A Program Advisory Committee will be established for every program of study at the College.
- 2.2 Notwithstanding section 2.1, one Program Advisory Committee may serve the needs of multiple programs of studies in a functional or career area.
- 2.3 The Board, on the recommendation of the President, shall establish each Program Advisory Committee and confirm its membership as part of the approval process for certificates, diplomas and degrees. Thereafter, members will be appointed or re-appointed by the President on behalf of the Board. On the recommendation of the President, the Board may amalgamate or eliminate Program Advisory Committees.
- 2.4 Each Program Advisory Committee will have a minimum of six (6) members, including one position reserved for a recent graduate of the program and one reserved for a current student, and shall be composed of a cross-section of persons external to the College who have a direct interest, and a diversity of experience and expertise related to, the particular occupational area addressed by the program.
- 2.5 Criteria for appointment will include, but not be limited to:
 - i) knowledge, skills and experience related to the profession, industry, business, sector or service relevant to the program of studies;
 - ii) geographic location of the individual or the individual's business or employer;
 - iii) standing of the individual or the business or employer within the broader industry, business, sector or service; and
 - iv) diversity of employers within the profession, industry, business, sector or service.
- 2.6 Members are appointed for a three (3) year term and may be re-appointed to a second three (3) year term.
- 2.7 Members will elect a Chair and Vice Chair from the membership of the committee for one (1) two (2) year term.

- 2.8 The Chair of the Advisory Committee (or the Vice Chair if the matter concerns the Chair) may recommend to the President, with the support of the committee, that a member be removed for conduct unbecoming or violation of professional ethics, By-laws or policies or if the member misses more than three (3) consecutive meetings without leave.
- 2.9 Each Program Advisory Committee may establish "ad hoc" sub-committees to assist it to meet its mandate. The Program Advisory Committee will establish the structure, composition and terms of reference of sub-committees.
- 2.10 The Program Chair, by virtue of office, will be a non-voting member of the Program Advisory Committee and shall act as the internal resource person for the committee.

3. Procedure

- 3.1 Delegation: The President may delegate responsibility for the operation of Program Advisory Committees, including the nomination of members, to a Dean.
- 3.2 Meetings: The Program Advisory will meet twice a year at a minimum.
- 3.3 Records: Notes shall be kept of all meetings of the Program Advisory Committees.
- 3.4 Committee Procedure: Except where constrained by By-law or College policy, each committee shall establish its own rules of procedure, including requirements for quorum and decision-making.
- 3.5 Reporting: Program Advisory Committees work primarily with the Program Chair and Deans. The Board may monitor the work of Program Advisory Committees through the Board's program review process or, if it so requests, through reports of the President.

4. Continuation

- 4.1 All Program Advisory Committees in place at the time that this By-law is enacted are hereby confirmed and continued; henceforth all Program Advisory Committees are bound to comply with the terms of this By-law.

APPENDIX 4 TO BY-LAW NO. 1



Terms of Reference

Mohawk College

President's Advisory Council

Policy Directive - Governance and Accountability Framework

Advisory College Council

The Board of Governors is to ensure that an advisory college council is established, the purpose of which is to provide means for students and staff of the college to provide advice to the president on matters of importance to students and staff. The Board of Governors is to ensure that the structure, composition, terms of reference and procedures for the council are established in by-law. A report from this advisory council shall be included in each college's annual report.

By-Law No. 1 (General Matters)

17.01 In accordance with the OCAAT Act and the Policy Directive – Governance and Accountability Framework, the College hereby establishes an Advisory College Council, known as the President's Advisory Council, the mandate, composition, membership and structure of which is established in Appendix 4 to this By-law.

1. Mandate

The mandate of the Mohawk President's Advisory Council is to represent the college community in providing timely advice to the President on issues that are of College-wide significance.

The Council advises the President on policies and practices that are related to the College's strategic priorities as determined by the Board and the Mohawk Executive

Group or Senior Leadership Team.

The Council represents the entire College community and includes representatives from faculty, administrative staff, support staff and students and promotes communication and consultation within the College. Activities of the Council will be reported on in the College's Annual Report.

2. Duties

2.1 Members

- Communicate regularly with constituent group;
- Bring items to the attention of the Steering Committee for meeting agendas; and
- Collaborate to provide the best possible advice to the President for the greater good of Mohawk College.

2.2 Vice Chair

- Serve as Chair in the Chair's absence;
- Normally serve a one-year term;
- Will normally assume the role of the Chair following term as Vice Chair; and
- Serve as a member of the Steering Committee.

2.3 Chair

- Serve as Chair of each Council meeting;
- Normally serve a one-year term;
- Develop work plan in conjunction with the President's Designate;
- Communication Council business to the college community; and
- Promote the healthy exchange of information between Council members and the President.

2.4 Secretariat

- Take minutes of all Council meetings;
- Circulate notice of meetings, minutes, agendas and supporting document to Council members; and,
- Maintain the President Advisory Council's Share Point site.

2.5 Steering Committee

- Will consist of the Chair, Vice Chair, the President's Designate, Secretary, a representative of the Mohawk Students' Association and a representative from among the Council's membership at large;
- Normally serve a one-year term;
- Annually review Terms of Reference;

- Establish meeting schedule;
- Notify Scheduling department of meeting schedule and list of all faculty members on PAC;
- Meet regularly to review Council meeting agendas;
- Serve as Elections Committee as required; and
- Assist the Chair in filling vacancies.

3. Membership

The position of a Council member is recognized as important and beneficial to the growth and development of the College. The position is voluntary and members may not receive remuneration for their participation, although reasonable travel expenses will be reimbursed. Meetings will be scheduled to accommodate members' schedules to the extent possible.

3.1 Composition

The membership of the Council shall reflect the makeup of the overall college community and be comprised of elected and appointed members as follows:

- One (1) President (Ex-Officio, Non-Voting)
- One (1) President's Designate (Non-Voting)
- One (1) Mohawk Students' Association President (Ex-Officio, Voting)
- Four (4) Mohawk Student's Association Representatives (Ex-Officio, Voting)
- One (1) Representative per Dean
 - Dean of Students
 - International & Partnerships
 - Applied Research
 - School of Health & Community Services
 - School of Engineering Technology & Aviation
 - Marshall School of Skilled Trades & Apprenticeship
 - McKeil School of Business, School of Creative Industries, Liberal Studies & Communication
 - Centre for Community Partnership & Experiential Learning
 - Continuing Education & Academic Development
- One (1) Administrative Representative (Fennell)
- One (1) Administrative Representative (Stoney Creek)
- One (1) Administrative Representative (IAHS)
- One (1) Support Staff Representative (Fennell)
- One (1) Support Staff Representative (Stoney Creek)
- One (1) Support Staff Representative (IAHS)
- One (1) Student Services Representative
- One (1) Corporate Services Representative
- One (1) President's Office Representative

- One (1) Mohawk College Administrative Staff Association Representative (Ex-Officio, Voting)
- One (1) Local 240 Representative (Ex-Officio, Voting)
- One (1) Local 241 Representative (Ex-Officio, Voting)
- One (1) Mohawk College Foundation representative (Observer, Non-Voting)

3.2 Designates

- a) Elected members are ineligible to appoint a designate;
- b) Appointed Ex-Officio voting members may appoint a designate to attend meetings in their absence.

3.3 Elections and Appointments

Elections will be held using either one of the following methods, depending on circumstance:

1. Constituent group elects or appoints a representative and notifies the Chair by the spring term of each academic year; or
2. The Steering Committee will act as the Elections Committee and hold an election using regular College communication channels.
3. The Chief Human Resources Officer will serve as Chief Electoral Office for any election.
4. Elections may utilize the electronic elections platform and will be administered by Human Resources in conjunction with Information Technology.
5. All full-time employees are eligible to stand for election.
6. All full and part-time employees are eligible to vote if they are a member of the particular constituent group electing their respective representative.
7. The Mohawk College Foundation observer is appointed by the President of the Mohawk College Foundation.

3.4 Terms of Office

3.4.1 College Representatives

- a) Terms will be two years in length beginning September 1 and ending August 31.
- b) May serve a maximum of two, two-year terms.
- c) The Council membership will be structured so that 50% of the Council will be refreshed annually.
- d) Following a hiatus of one two-year term, a former member may run for election or be appointed for another two-year term.

3.4.2 Mohawk College Students' Association Representatives

- a) Student members, excluding the MSA President, may serve a maximum one-year term.
- b) The MSA President will be a member for the duration of office held.

3.5 Resignation and Replacement of Members

If an elected member of Council resigns, or moves to another position in the College and therefore cannot represent the constituency, the head of the division or group represented will appoint a replacement, under the following conditions:

- a) The replacement appointee must be a member of the division or group represented by the member who resigned.
- b) The replacement appointee will normally be selected from the candidates who ran in the previous election for that division or group, starting with the first runner-up.
- c) If the original representative was elected by acclamation, then a new election or appointment will be held.
- d) Replacements for elected or appointed members will serve to the end of the original two-year term of the member they are replacing.

3.6 Conditions for Removal

Absenteeism will be dealt with on an individual basis. If a member misses two consecutive meetings, the Chair will discuss the member's ability to fulfill the commitment as a member. Members may be removed for unexcused absenteeism.

4. Meetings

4.1 Schedule

- Two meetings in the fall term;
- Two meetings in the winter term; and
- One meeting in the spring term (work planning and member transition).

4.2 Location

When possible, meetings will rotate between campuses.

4.3 Quorum

Quorum will be 50% plus one excluding vacancies.

4.4 Decision Making

Decisions will be made with a simple majority vote. The President and the President's Designate will be non-voting members. In the event of a tie the motion is defeated.

4.5 Work Plan

- Annually at the spring transition meeting, the Chair will facilitate a discussion regarding work plan items that the Council would like to see brought forward for the upcoming academic year.
- The Chair will bring forward a proposed work plan at the first fall term meeting to be ratified by the Council and amended from time to time.
- Policies will be an ongoing agenda item and a part of the normal process of policy review and will normally be reviewed prior to Senior Leadership Team (SLT) approval.
- Where policies require changes as a result of regulatory requirements or are deemed by the Policy Committee to be urgent, SLT can approve the policy provided that the policy is brought forward for information to the next Council meeting so that changes can be contemplated and made if needed.
- Members may request changes or additions to the work plan when required.

5. President Participation

- The President shall join the meeting to provide for information exchange from the Council for the first portion of the meeting.
- The President may be excused for the discussion portion of the meeting to allow for an open and candid discussion between Council members.
- The Chair and President's Designate will provide a summary of discussions held at Council to the President where the President was not present.
- The Chair will include an overview of discussions held with the President in the proceeding meeting's opening remarks.

6. Communication

- Members are expected to communicate regularly with their constituent group and to bring items to the attention of the Steering Committee for meeting agendas.
- Members are expected to include Council information as a regular standing agenda item for the regular constituent group.
- The President will use normal communication channels to relay information about Council meetings.
- In the spring and summer terms, members will survey constituencies for potential Council priorities to be forwarded to the Chair for work-plan consideration.

A summary of activities of the Council will be included in the College's Annual Report.