

OPERATING PROCEDURES OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

ARTICLE I

Names and Address

The name of the organization is the Morris K. Udall and Stewart L. Udall Foundation (the “Udall Foundation”). The physical location and mailing address of the Udall Foundation’s headquarters is 130 South Scott Avenue, Tucson, Arizona 85701-1922.

ARTICLE II

Purpose

A. Purpose of the Udall Foundation. The Morris K. Udall Foundation (Udall Foundation) was established by the U.S. Congress in 1992 as an independent executive branch agency to honor Morris K. Udall's lasting impact on this Nation’s environment, public lands, and natural resources, and his support of the rights and self-governance of Native Americans and Alaska Natives (P.L. 102-259). The 1998 Environmental Policy and Conflict Resolution Act (P.L. 105-156) created the U.S. Institute for Environmental Conflict Resolution as a program of the Udall Foundation to assist parties in resolving environmental, public lands, and natural resources conflicts nationwide that involve Federal agencies or interests. In 2000, Congress authorized the Udall Foundation to conduct management and leadership education and provide assistance and resources for policy analysis for Native American and Alaska Native leaders (P.L. 106-568). In 2009, Congress enacted legislation to honor Stewart L. Udall and add his name to the Udall Foundation (P.L. 111-90). The agency is now known as the Morris K. Udall and Stewart L. Udall Foundation. The Udall Foundation’s enabling legislation is codified at 20 U.S.C. 5601-5609. The Udall Foundation’s offices are located in Tucson, Arizona and Washington, D.C. The Udall Foundation awards scholarships, fellowships, and internships for study in fields related to the environment and to Native Americans and Alaska Natives in fields related to health care and Tribal public policy; connects youth from underserved communities to the Nation’s public lands and natural resources to foster greater understanding, appreciation, stewardship, and enjoyment of those lands and resources through photography, positive outdoor experiences, and environmental education through the Stewart L. Udall Parks in Focus®; provides funding to the Native Nations Institute for research, education, and outreach on Native American and Alaska Native health care issues and Tribal public policy issues; provides funding to the Udall Center for Studies in Public Policy to conduct policy research and outreach on the environment and related themes; and provides assessment, mediation, training, and other related services through the U.S. Institute for Environmental Conflict Resolution.

B. Operating Procedures for the Board of Trustees. These Operating Procedures constitute the principles and procedures that the Udall Foundation’s Board of Trustees shall utilize in carrying out its duties and responsibilities of supervising and directing the Udall Foundation and set forth the Board’s expectations concerning the Udall Foundation’s Executive Director, Deputy Executive Director and General Counsel. The Operating Procedures also set forth the Board’s

expectations for periodic reporting to the Board by the Directors of the Udall Foundation, the Native Nations Institute for Leadership, Management and Policy at the University of Arizona, the Udall Center for Studies in Public Policy at the University of Arizona, and the Morris K. Udall and Stewart L. Udall Archives at the University of Arizona Libraries Special Collections. (The Directors of the Foundation and the Organization Chart is included as Appendix 1). These Operating Procedures are intended to be consistent with 20 U.S.C. §5603, *et seq.*, and any other applicable federal law. In the event of conflict between these Operating Procedures and Federal law, Federal law controls and these Operating Procedures shall be interpreted and applied in accordance with such Federal laws.

ARTICLE III

Board of Trustees

A. Duty and Responsibilities. The Udall Foundation is subject to the supervision and direction of the Board of Trustees (Board). It is the Board's role and duty to appoint the Executive Director and other senior management staff as provided for in these Operating Procedures; fix the compensation of the Executive Director and up to four additional senior management personnel; approve the organizational structure for the staff of the Udall Foundation; approve the Udall Foundation's annual budget; arrange for an annual financial audit; set policies, including internal controls, for the conduct and management of the agency's finances, personnel, and programs to be implemented by staff; and approve the strategic directions and priorities for the Udall Foundation.

B. Board Eligibility and Composition. The Board has 13 Trustees, 11 of whom are voting members of the Board. As set forth in the enabling legislation, the membership of the Board is comprised of:

- (1) Two Trustees, appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.
- (2) Two Trustees, appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.
- (3) Five Trustees, not more than three of whom shall be of the same political party, appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in—
 - (A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment;
 - or
 - (B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.
- (4) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.
- (5) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

(7) The chairperson of the President's Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

C. Term of Office. The term of office of each appointed Trustee is six (6) years. However, a Trustee may serve after the expiration of the Trustee's term until a successor has been confirmed by the U.S. Senate and appointed by the President.

D. Vacancies. A Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

E. Officers. The Officers of the Board shall consist of a Chair, Vice Chair, Secretary, and such other Officers as the Board deems necessary to carry out the duties of the Board as prescribed by statute and these Operating Procedures. The election of Officers is for the administrative convenience of the Board. Notwithstanding the election of Officers, all Trustees share in the duties and responsibilities of the Board and are equally entitled to access to the staff, books and records of the Udall Foundation as may be necessary to fulfill their duties and responsibilities.

1. **Chair.** The Chair shall be selected by majority vote of the Trustees from eligible voting members who are nominated by the President pursuant to 20 U.S.C. §5603(b)(1)-(3). The Chair shall have such powers as are necessary to perform such duties as the Board may prescribe including, but not limited to:
 - a. Regularly interacting with the Executive Director and other senior staff of the Udall Foundation or other staff members as the Board Chair deems necessary;
 - b. Ongoing, regular supervision of the Executive Director and senior staff of the Udall Foundation and of the direction of the programs of the Udall Foundation;
 - c. Representing the Udall Foundation before Congress and other agencies of the Executive Branch as well as Native Nations and State and Local governments as necessary to carry out the purposes of the Udall Foundation; and,
 - d. Establishing, with Board approval, ad hoc committees outside of the standing committees to address Udall Foundation needs as they arise, the Board Chair to be a voting, ex officio member of each such committee.
 - e. Appendix 2 provides a more detailed listing of the duties of the Board Chair and may be amended separately from these Operating Procedures when and as deemed necessary by the Board.
2. **Vice Chair.** The Vice Chair shall carry out the duties of the Chair in the

absence or incapacity of the Chair, or if the office of Chair is vacant, shall accede to the position of Chair and continue in that position until the expiration of the Chair's term of office, and shall otherwise carry out such duties as the Chair may assign from time-to-time.

3. **Secretary.** The Secretary shall maintain minutes and records of Board proceedings. The staff of the Udall Foundation shall assist the Secretary in the maintenance of the minutes and records of Board proceedings. Minutes are records of the Udall Foundation, and are kept by the Executive Assistant to the Executive Director of the Udall Foundation.
4. **Other Officers.** The Board may elect such other Officers as it deems appropriate to carry out such duties as the Board designates.
5. **Elections and Terms.** Officers of the Board shall be elected by majority vote and shall serve for terms of four (4) years. Officers may be removed from office at any time by a vote of a majority of the then serving members of the Board. Such removal may only be for failure to perform their duties or for misconduct that brings the Udall Foundation into disrepute. Vacancies in any office may be filled by a majority vote of the Board at any meeting of the Board.
6. **Limitations on Officers.** No Officer shall hold more than one (1) office at a time. No Officer may serve for more than two consecutive terms of four years each in the same office. If there is a break in service for the Officer (i.e. the Officer is not in the position for some period of time, or when the Vice Chair accedes to the position of Chair), the number of years counted shall be based on when the Officer is re-elected into the relevant office, or when the Vice Chair accedes to the position of Chair when that position is vacant.

F. Executive Committee. The Board may form an Executive Committee, consisting of the Chair, Vice Chair, and up to four other Trustees as the Board may designate by majority vote of the then serving members of the Board, all of whom shall serve on the Executive Committee for terms of four (4) years, subject to removal at any time by vote of a majority of the then serving members of the Board for failure to perform the duties of a member of the Executive Committee. Vacancies on the Executive Committee may be filled by a majority vote of the Board at any meeting of the Board. The formation of an Executive Committee is for the administrative convenience of the Board. Notwithstanding the formation of an Executive Committee, all Trustees share in the duties and responsibilities of the Board and are equally entitled to access to the staff, books and records of the Udall Foundation as may be necessary to fulfill their duties and responsibilities.

1. **Meetings.** The Executive Committee may meet in person, telephonically, or in any other manner agreed by the Board and transact business with a simple majority of Executive Committee members. The Executive Committee shall meet at the discretion of the Chair of the Executive Committee. The Board Chair may delegate to the Vice Chair or to

another member the position of Chair of the Executive Committee, or may choose to fill that position.

The Federal rules and rules of these Operating Procedures concerning Board proxies and the laws governing open meetings shall apply to Executive Committee meetings in which the Executive Committee is conducting business on behalf of the Board.

2. **Functions.** Between regularly scheduled meetings of the Board, the Executive Committee, as required by the Chair of the Executive Committee, will provide guidance regarding Board policies, make interim decisions necessary to implement Board policies and decisions, and develop proposals for Board consideration. The Executive Committee may not adopt policies, procedures, or regulations for the Board or the Udall Foundation without the approval of the Board. The Executive Committee shall report to the Board at its next meeting on any actions taken by the Executive Committee prior to that meeting for consideration and ratification by the full Board. The Executive Committee is authorized to act on behalf of the Board when business matters: (1) of an urgent nature are pending and the timely assembly of a quorum of the Board is not possible; (2) of a routine business nature are pending, such as disbursements for necessary expenses, allocating funds for special work, provided such amount shall not exceed the budget allowance for such work as previously approved by the Board; or require a position be stated on a general policy matter, or (3) are referred to them by the Board. The Executive Committee may refer matters brought before it to the proper committee of the Board, which it may designate, or to the Board.

G. Travel and Subsistence Pay. Trustees shall serve without pay, but in accordance with Federal laws, shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

H. Former Trustees. Former Trustees who have provided contact information to the Udall Foundation will generally be invited to attend the Board's regular meetings at their own expense and participate in discussions held in open session. Former Trustees shall not be entitled to vote on matters before the Board or to engage in official business on behalf of the Board or the Udall Foundation. At the request of the Board, Former Trustees may perform volunteer services for the Udall Foundation and be reimbursed for travel expenses directly related to such service, subject to approval of the reimbursement by the Board. Any such reimbursement must comply with 5 U.S.C. § 5703.

ARTICLE IV

Conflict of Interest and Other Ethical Requirements

A. Governing Law. Trustees are Special Government Employees (SGEs). They are required to comply with certain criminal conflict of interest statutes (18 U.S.C. §§ 201-209) and the

Standards of Ethical Conduct for Executive Branch Employees, as codified at 5 C.F.R. Part 2635. Some of these provisions apply differently to SGEs. The Office of Government Ethics has published a comprehensive summary explaining how these provisions, Executive Branch financial disclosure requirements, and certain other legal authorities apply to SGEs.

1. 18 U.S.C. § 201 prohibits the giving or receipt of anything of value or promise of the same to a Trustee to induce such Trustee to do or omit to do any act in violation of his or her public duty.
2. 18 U.S.C. § 202 defines the term Special Government Employee (SGE).
3. 18 U.S.C. § 203 prohibits a Trustee from receiving, agreeing to receive or soliciting compensation for representational services, rendered either personally or by another, before any court or federal agency or other specified federal entity in connection with any particular matter in which the United States is a party, or has a direct and substantial interest. Section 203 applies not only to representational services provided by the Trustee personally, but also to services provided by another person with whom the Trustee is associated, provided the Trustee shares in the compensation for such services, as in partnership income or profit-sharing arrangements. This does not preclude a Trustee from acting, with or without compensation, as an agent or attorney for the Trustee's spouse; child; or for any other person for whom the Trustee serves as a guardian, executor, administrator, trustee, or other personal fiduciary, except in matters in which the Trustee has participated personally and substantially as a Board member through decision, approval or disapproval, recommendation, advice or otherwise. *Note that this statute only applies to a Trustee in relation to a particular matter involving a specific party or parties and in which the Trustee has participated personally and substantially as a Board member through advice, decision, approval, disapproval, recommendation or otherwise.*
4. 18 U.S.C. § 204 prohibits a Trustee, other than in the discharge of his official duties, from prosecuting a claim against the United States, acting as an agent or attorney for another prosecuting a claim against the United States, or receiving as consideration for assistance for same, any gratuity, or share of or interest in such claim; or from acting as an agent or attorney for anyone before any department, agency, court, or military tribunal in connection with any covered matter in which the United States is a party or has a direct or substantial interest. The term "covered matter" means any judicial or other proceeding, application, contract, claim, investigation, charge, arrest or any other particular matter. This does not preclude a Trustee from acting, with or without compensation, as an agent or attorney for the Trustee's spouse; child; or for any other person for whom the Trustee serves as guardian, executor, administrator, trustee, or other personal fiduciary, except in matters in which the Trustee has participated personally and substantially as a Board member through decision, approval or disapproval, recommendation, advice or otherwise. *Note that this statute only applies to a Trustee in relation to a covered matter involving a specific party or parties and in which the Trustee has participated personally and substantially as*

a Board member through advice, decision, approval, disapproval, recommendation or otherwise; or, which is pending in the agency the Trustee is serving.

5. 18 U.S.C. § 205 prohibits a Trustee from personally representing anyone before any court, federal agency, or any other entity in connection with any particular matter in which the United States is a party or has a direct and substantial interest, whether or not the Trustee receives compensation for the representational activity. *Note that this statute only applies to a Trustee in relation to a particular matter involving a specific party or parties and in which the Trustee has participated personally and substantially as a Board member through advice, decision, approval or disapproval, recommendation or otherwise.*
6. 18 U.S.C. § 207 imposes restrictions on post-employment activities including various prohibitions on representing others in connection with particular matters in which the Trustee has participated personally and substantially as a Board member through advice, decision, approval or disapproval, recommendation or otherwise.
7. 18 U.S.C. § 208 prohibits a Trustee from participating personally and substantially in the Trustee's official capacity in any particular matter in which, to the Trustee's knowledge, the Trustee or any person whose interests are imputed to him has a financial interest, if the particular matter will have a direct and predictable effect on that interest.
8. 18 U.S.C. § 216 establishes the penalties for violations of §§ 203, 204, 205, 207 and 208, which include imprisonment of not more than one year or a fine, or both; and for willful violation, a penalty of imprisonment of up to five years or a fine, or both.
9. 5 C.F.R. Part 2635 - Standards of Ethical Conduct for Executive Branch Employees generally applies the provisions of Title 18 of the United States Code by:
 - a. Placing restrictions on gifts from outside sources;
 - b. Placing restrictions on gifts from subordinates to superiors;
 - c. Generally prohibiting participation by a Trustee in particular matters if that Trustee knows that the matter is likely to affect his or her financial interest, that of a member of his or her household, or others with certain specified business relationships; or if in the Trustee's judgment, persons with knowledge of the facts would question his or her impartiality, except when a waiver has been specifically given to the Trustee in advance of the participation in the particular matter;
 - d. Restricting participation in matters affecting the financial interests of someone

with whom the Trustee is seeking future employment, under certain specified circumstances;

e. Prohibiting the use of public office for private gain;

f. Restricting service as an expert witness and in certain fundraising activities; and,

g. Requiring annual confidential financial disclosures by a Trustee.

10. Definitions with Respect to these statutes and 5 C.F.R. Part 2635

a. *“Personal and Substantial.* To participate personally means to participate directly. It includes the direct and active supervision of the participation of a subordinate in the matter. To participate substantially means that the Trustee’s involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of a particular matter. However, it requires more than official responsibility, knowledge, perfunctory involvement or involvement in an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to a matter, but also on the importance of that effort. While a series of peripheral involvements may be insubstantial, a single act of approving or participating in a critical step may be substantial. Personal and substantial participation may occur when, for example, a Trustee participates through decision, approval, disapproval, recommendation, investigation or the rendering of advice in a particular matter.” 5 C.F.R. § 2635.402(b)(4).

b. *“Imputed interests.* For purposes of 18 U.S.C. § 208(a) the financial interest of the following persons will serve to disqualify a Trustee to the same extent as if they were the Trustee’s own interest: (i) the Trustee’s spouse; (ii) the Trustee’s minor child; (iii) the Trustee’s general partner; (iv) an organization or entity the Trustee serves as an officer, director, trustee, general partner or employee; and (v) a person with whom the Trustee is negotiating for or has any arrangement concerning prospective employment.” 5 C.F.R. § 2635.402(b)(2)

c. *“Direct and Predictable Effect.* A particular matter will have a direct effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest. An effect may occur even though it does not occur immediately. A particular matter will not have an effect on a financial interest, however, if the chain of causation is attenuated or is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter that has an effect on the financial interest only as a consequence of its effect on the general economy does not have a direct effect within the meaning of this definition. A particular matter will have a predictable effect if there is a real, as opposed to a speculative, possibility that the matter will affect the financial interest. It is not necessary, however, that the magnitude of the gain

or loss be known, and the dollar amount of the gain or loss is immaterial.” 5 C.F.R. § 2635.402(b)(1)

d. “*Particular Matter*. This term encompasses only matters that involve deliberation, decision, or action that is focused on the interests of specific persons, or a discrete and identifiable class of persons. A matter is covered by these ethics rules even if it does not involve formal parties and may include government actions such as proposed legislation or policy-making that is narrowly focused on the interests of such a discrete and identifiable class of persons. The term particular matter does not extend to the consideration or adoption of broad policy options that are directed to the interests of large and diverse groups of persons.” Particular matters include but are not limited to: Board proceedings; action on applications of any nature; requests for a ruling or a determination by the Board; and contracts, claims, charges, and controversies before the Board. 5 C.F.R. § 2635.402(b)(3)

11. Exception with Respect to Conflicts of Interest. Trustees who are serving by operation of law as the Chair of the Council of Environmental Quality, the Secretary of the Department of Education, the Secretary of the Interior or their designees, do not have a prohibited conflict of interest if they take official action on matters as a Federal employee sitting as Trustee for the Udall Foundation because the Udall Foundation is also a Federal agency. These Trustees owe a fiduciary duty to the Federal Government and there is no conflicting obligation between their duties as Trustees and their duties as Federal officials in another agency of the Federal Government.

B. Implementation.

1. Trustees are responsible for notifying the Board Chair (or, in the case of the Board Chair, the Vice Chair) and the Udall Foundation Designated Agency Ethics Official (usually the General Counsel) of any potential conflict of interest or appearance thereof, or other ethical issues relating to the statutes and regulations, of which the Trustee becomes aware.
2. The Board Chair and/or Designated Agency Ethics Official may, from time to time, request of the Trustees information concerning business, personal or other relationships that the Trustees, either directly or through an imputed interest, may have with third parties that have dealings with the Udall Foundation. Trustees will respond to such requests as soon as is practicable.
3. Trustees shall comply with all directives of the Board Chair and/or the Designated Agency Ethics Official with regard to matters involving potential conflicts of interest or other ethical issues, including any directive by which a Trustee is to be recused from activities or from voting on Board matters to avoid or cure a potential or actual conflict of interest or to resolve another potential ethics issue.

C. Waivers for Conflicts of Interest or the Appearance Thereof. Because Congress and

other agencies recognize that there are occasions when a conflict of interest or an appearance of a conflict of interest is de minimis or is outweighed by the needs of the Government for an employee or official to act, waivers may be granted by the appropriate authorized Federal official, which for Trustees is the White House Counsel to the President. Waivers for Trustees with potential conflicts of interests may be granted in accordance with the special waiver provisions outlined in 18 U.S.C. § 208, and 5 C.F.R. § 2635.402, § 2635.502, § 2635.605, and § 2640.301. A waiver may also be granted in an individual matter involving specific parties where impartiality may be questioned. A Trustee may be authorized to participate in the matter after careful evaluation of the given situations and issues requiring the waiver. A waiver is only valid if all of the following criteria are met:

1. The waiver is granted before a Trustee engages in a potentially prohibited activity.
2. The Trustee has made a full disclosure of the nature and extent of the Trustee's disqualifying financial interest, how it relates to the nature and circumstances of the particular matter or matters and all other relevant facts.
3. A specific determination has been made that the Trustee's interest is not so substantial as to be deemed likely to affect the integrity of the services that the Government may expect.
4. The waiver is issued in writing. If practicable, the Office of Government Ethics will be consulted formally or informally prior to the granting of each waiver. A copy of each waiver granted will be forwarded to the Director of the Office of Government Ethics.

D. Financial Disclosure. All Trustees are required to file a financial disclosure statement on Form SF 450 with the Udall Foundation's Ethics Officer on or before February 15th of each year unless a prior extension is granted, or, in the case of ex officio members of the Board who are also Federal employees, with their respective Designated Agency Ethics Official, with a copy provided to the Udall Foundation's Ethics Officer. Any Trustee who has failed to timely file their annual disclosure statement shall not attend or participate in any meeting of the Board of Trustees or any committee of the Board until such time as the required financial disclosure statement has been filed.

E. Ethics Training. All Trustees are required to undertake ethics training at least annually in the manner prescribed by the Chair in coordination with the Designated Agency Ethics Official. Training may be electronic (Web-based) or live at a Board Meeting, or both.

ARTICLE V

Meetings

A. Regularly Scheduled Meetings. The Board shall conduct at least two meetings each year at such time and place as determined by the Board.

B. Purpose. At such regularly scheduled meetings, Udall Foundation staff shall report on:

1. The operations of the Udall Foundation, and its progress towards meeting the statutory requirements mandated by Congress in 20 U.S.C. § 5603-§ 5609;
2. The Udall Foundation's programs including:
 - a. U.S. Institute for Environmental Conflict Resolution
 - b. Scholarships
 - c. Fellowships
 - d. Internships
 - e. Stewart L. Udall Parks in Focus® Program
 - f. Grants to the Udall Center for Studies in Public Policy at the University of Arizona; one report to include a work plan to be approved by the Board
 - g. The Morris K. Udall and Stewart L. Udall Repositories at the University of Arizona Libraries Special Collections, one report to include a work plan to be approved by the Board
 - h. The Program for Environmental Policy Research at the Udall Center for Public Policy, one report to include a work plan to be approved by the Board
 - i. The Native Nations Institute for Leadership, Management, and Policy, one report to include a work plan to be approved by the Board
3. The Morris K. Udall and Stewart L. Udall Trust Fund;
4. The Environmental Dispute Resolution Fund;
5. Finances and status of internal controls of the Morris K. Udall and Stewart L. Udall Foundation; and,
6. Such other business as may come before the Board.

C. Open Meetings. Meetings of the Board shall generally be open, except for Executive Sessions as designated by the Chair in consultation with the Board and in compliance with The Government in the Sunshine Act, 5 U.S.C. § 552b (Sunshine Act). Discussions regarding matters authorized by the Sunshine Act to be conducted in meetings closed to the public shall be held in Executive Session. Members of the public may, with permission of the Chair, make oral comments to the Board at an open meeting. The Chair may determine in advance of a meeting to exclude oral public comment.

D. Notice. The Chair shall provide Trustees with at least fifteen (15) days written notice of any meeting of the Board. The notice need not specify the business to be transacted at the meeting. The notice shall be deemed given upon email or facsimile transmission; or if sent by overnight mail or delivery service twenty-four (24) hours after deposit with the delivery service; or if sent by regular mail, three (3) days after deposit with the U.S. Postal Service, postage paid. Notice of a meeting may be waived at any time in writing or by attendance without objection by the person entitled to notice. This Notice shall not replace or limit the obligations of the Board with respect to the notice requirements of 5 U.S.C. § 552b, above.

E. Quorum. The physical, telephonic, or other virtual presence of six (6) voting Trustees shall constitute a quorum for transacting business at any meeting. If, due to vacancies on the Board, fewer than six (6) members would constitute a majority, a majority of then-serving, voting Trustees shall constitute a quorum. Every act or decision made by a majority of the Trustees present (in person or virtually) and voting at a meeting at which a quorum is present shall be regarded as an act of the Board. The Board may continue to transact business at a meeting at which a quorum is initially present notwithstanding the subsequent absence of a Trustee, as long as any action is approved by at least a majority of the quorum required for that meeting.

F. Virtual-only Meetings. Virtual meetings are defined as telephone, videoconference, email, group email list, or other means of virtual communications technology, whereby one or more Trustees participate remotely in an officially called meeting of the Board. Virtual meetings may be used for either regular or special meetings of the Board.

1. **Notice.** All Board members must be properly notified of meetings held only via virtual technology in conformity with Article V (D) of these Operating Procedures. Additionally, all members must have access to devices that permit them to fully participate in such meetings.
2. **Sunshine Act.** Board Meetings held only by virtual means shall be arranged and conducted so as to comply with the Sunshine Act as applicable.

G. Proxies. Trustees may vote by proxy. A proxy must be cast by another Trustee and must be in writing. The proxy must be provided to the Trustee casting the vote prior to any vote. Proxy votes may not be used for the purpose of establishing a quorum.

H. Action without a Meeting. Subject to any limitations imposed by the Sunshine Act, any policy or action that may be approved or taken at a Board meeting may be taken or approved without a meeting if all voting Trustees consent in writing (e-mail constitutes “in writing”).

I. Votes. Unless all Trustees consent to the approval of any matter pending before the Board, all actions of the Board shall be taken by a formal Board Resolution, duly seconded and adopted by a majority of the Trustees voting in person or by proxy. Matters which are consented to by all Trustees may be approved using a Consent Agenda rather than by formal Board Resolution, if so determined by the Chair.

J. “Majority of the Board”. For the purposes of these Operating Procedures, the term “majority of the Board” means a majority of the Board present, either physically, virtually, or by proxy, at the Board meeting where the decision is made. The term “majority of the then serving members of the Board” means a majority of the entire current membership of the Board.

ARTICLE VI

Executive Director

A. Purpose. The Board shall select and appoint an Executive Director who is responsible for the overall administration of the Udall Foundation and who will manage the day-to-day business operations and Udall Foundation staff. The Executive Director shall be the chief executive officer of the Udall Foundation and shall implement and carry out the mission and functions of the Udall Foundation, subject to the supervision and direction of the Board.

B. Roles and Responsibilities. The Executive Director's responsibilities and objectives shall be set by the Board, and the Executive Director shall execute these directives and any other functions as the Board prescribes. Specific tasks relating to the Board shall include, but not be limited to:

1. Reporting to the Board on progress toward the statutory requirements mandated by Congress for the Udall Foundation;
2. Assisting the Board Chair in organizing the regularly scheduled Board meetings, and any subsequent non-scheduled additional Board meetings and meetings of the Executive Committee;
3. Preparing an orientation and transition program for newly selected Board members;
4. Maintaining regular contact with the Chair and Vice Chair, outside of the regularly scheduled Board meetings, to seek direction and to report on the work of the Executive Director and fully apprise them of any issues of concern affecting the Udall Foundation or any of its programs;
5. Ensuring that the programming priorities outlined in Article V (B) (1-5) of these Operating Procedures comply with the funding allocation provisions in 20 U.S.C. § 5605, § 5606, and the auditing and expenditure provision in § 5607, § 5607a; and,
6. Preparing communications and responses for the Chair on any Congressional inquiry directed to the Udall Foundation or any Trustee.
7. Preparing and filing written reports with the Board monthly, or as requested by the Board, regarding the work of the Executive Director and notifying the Board of any issues that may require the attention of or action by the Board.

C. Selection. The Board Chair shall appoint a selection committee when the position of Executive Director for the Udall Foundation becomes vacant. The selection committee shall represent a cross section of the Board's membership and be headed by the Board Chair. The entire Board may be the selection committee if so designated by the Board Chair. The selection committee shall conduct a search for a qualified Executive Director and recommend a candidate to the full Board of Trustees for approval by a majority vote of the Board. The processes and procedures for conduct of the search and recommendation to the full Board of Trustees shall be determined by the Chair at the start of the selection process. The process may include the Directors and other staff as necessary and appropriate, as determined by the Chair. Such

processes shall be determined by the Chair in consultation with the General Counsel.

D. Compensation. The Executive Director shall be compensated at a rate determined by the Board in accordance with 5 U.S.C. § 5383.

E. Evaluation. The performance of the Executive Director shall be evaluated annually by the Board Chair, who shall report to the Board no less than annually on the Executive Director's management of the operations and staff of the Udall Foundation.

Article VII

Deputy Executive Director

A. Purpose. The Executive Director shall select and appoint a Deputy Executive Director who will assist the Executive Director in the overall administration of the Udall Foundation. The Deputy Executive Director shall be the chief operating officer of the Udall Foundation and assist the Executive Director in implementing and carrying out the mission and functions of the Udall Foundation, subject to the supervision and direction of the Executive Director, with input from the Board as appropriate.

B. Roles and Responsibilities. The Deputy Executive Director's responsibilities and objectives shall be set by the Board and the Executive Director. The Deputy Executive Director shall execute these directives and any other functions as the Board or the Executive Director prescribes. The primary function of the Deputy Executive Director shall be to ensure the smooth operation of the Udall Foundation, especially when the Executive Director is fulfilling obligations such that the Executive Director may be unavailable to oversee the day-to-day operation of the Udall Foundation.

C. The Deputy Executive Director position may be assigned to a Director or the General Counsel concurrently with the duties of the Director or General Counsel.

D. Selection. The Executive Director shall recruit and hire, or select from the serving Directors and General Counsel, when the Deputy Executive Director for the Udall Foundation position becomes vacant. The Executive Director shall consult with the Board Chair and Vice Chair regarding the selection of a Deputy Executive Director.

E. Compensation. The Deputy Executive Director shall be compensated at a rate determined by the Board in accordance with 5 U.S.C. § 5383. If the Deputy Executive Director is also a Director or the current General Counsel, compensation for both positions will be at a rate lower than the combined positions and appropriate relative to the compensation of the Executive Director.

F. Evaluation. The performance of the Deputy Executive Director shall be evaluated annually by the Executive Director, with informal review by the Board Chair. The evaluation shall be reported to the Board no less than annually.

Article VIII

Directors

The Executive Director may determine that it is appropriate for the Udall Foundation to employ one or more Directors to ensure the efficient management of the personnel, funds and programs of the Udall Foundation, as set forth in the management structure of the Udall Foundation to be approved by the Board. In that event, the Executive Director shall recruit and hire qualified individuals for such positions with the input of the Board Chair and Vice Chair.

1. Any employee serving in such a position shall be supervised by the Executive Director with informal review by the Board Chair.
2. Each Director shall present two written reports annually (supplemented, as agreed with the Executive Director, with oral reports at the Board meetings), and shall promptly and fully apprise the Executive Director, Deputy Executive Director, and the Board of any issues that arise that may require the Executive Director's or the Board's attention or action.
3. The Finance and Operations Director shall always include in the semi-annual Report an update on the status of the Internal Controls of the Udall Foundation.
4. The Board may request additional reports from any Director at any time; and the Directors are encouraged to bring any other matter of importance to the Board's attention at any time.

ARTICLE IX

General Counsel

A. Purpose. The Board shall select and appoint an attorney to serve as the General Counsel to manage the day-to-day legal affairs of the Udall Foundation. The General Counsel shall support and assist the Executive Director and staff of the Udall Foundation and shall ensure that the programs and activities of the Udall Foundation are conducted in conformity with all applicable laws and regulations. The General Counsel shall be supervised on a day-to-day basis by the Executive Director, and shall also be subject to the direction and supervision of the Board, and shall:

1. Maintain regular contact with the Chair and Vice Chair, outside of the regularly scheduled Board meetings, to seek direction and to report on the work of the General Counsel and issues of concern to the Udall Foundation; and,
2. Prepare and file written reports with the Board Chair monthly, or as determined by the Board Chair, regarding the work of the General Counsel. Such reports may be combined with the report of the Executive Director. The General Counsel shall promptly and fully apprise the Executive Director and/or the Board of any issues that may require the Executive Director's or the Board's attention or action.

B. Evaluation. The performance of the General Counsel shall be evaluated annually by the Executive Director, with the input of the Board Chair and Vice Chair, and the evaluation shall be reported to the Board no less than annually.

ARTICLE X

Fiscal Year

Definition. The Congressional fiscal year shall serve as the fiscal year of the Udall Foundation.

ARTICLE XI

Parliamentary Authority

Usage. The rules contained in the current edition of *Robert's Rules of Order Newly Revised*, shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these Operating Procedures and any special rules of order the Board may adopt.

ARTICLE XII

Amendment of Operating Procedures

A. Amendment by the Board. These Operating Procedures may be amended at a meeting of the Board by a two-thirds (2/3) vote of the Trustees present in person or by virtual means, provided prior notice of the proposed amendment has been submitted in writing to each Trustee at least seven days prior to the meeting, and that said amendments do not conflict with any provision of 20 U.S.C. §§ 5601 et seq. or any other Federal law applicable to the Udall Foundation. The notice required by this section of the Operating Procedures can be sent by United States Mail, e-mail, fax, or by providing notice that a proposed change has been posted to the Trustee Website and shall contain the language of the amendment and an explanation for each proposed amendment.

B. Corrections to the Operating Procedures; changes to appendices. Minor corrections of spelling, punctuation, and grammar may be made without amending the Operating Procedures, provided that such corrections do not alter the meaning of the Operating Procedures in any way. Corrections, additions, and modifications to appendices may also be made without amending the Operating Procedures. The date such corrections are made shall be entered into the list of Operating Procedures revisions, which shall be kept by the Secretary and Executive Assistant to the Executive Director of the Udall Foundation, and shall be available for inspection by any Trustee.

C. Adoption. The original Operating Procedures were adopted at a regularly scheduled and properly noticed meeting of the Board on November 9, 2012, by a vote of 10 in favor and 0 opposed.

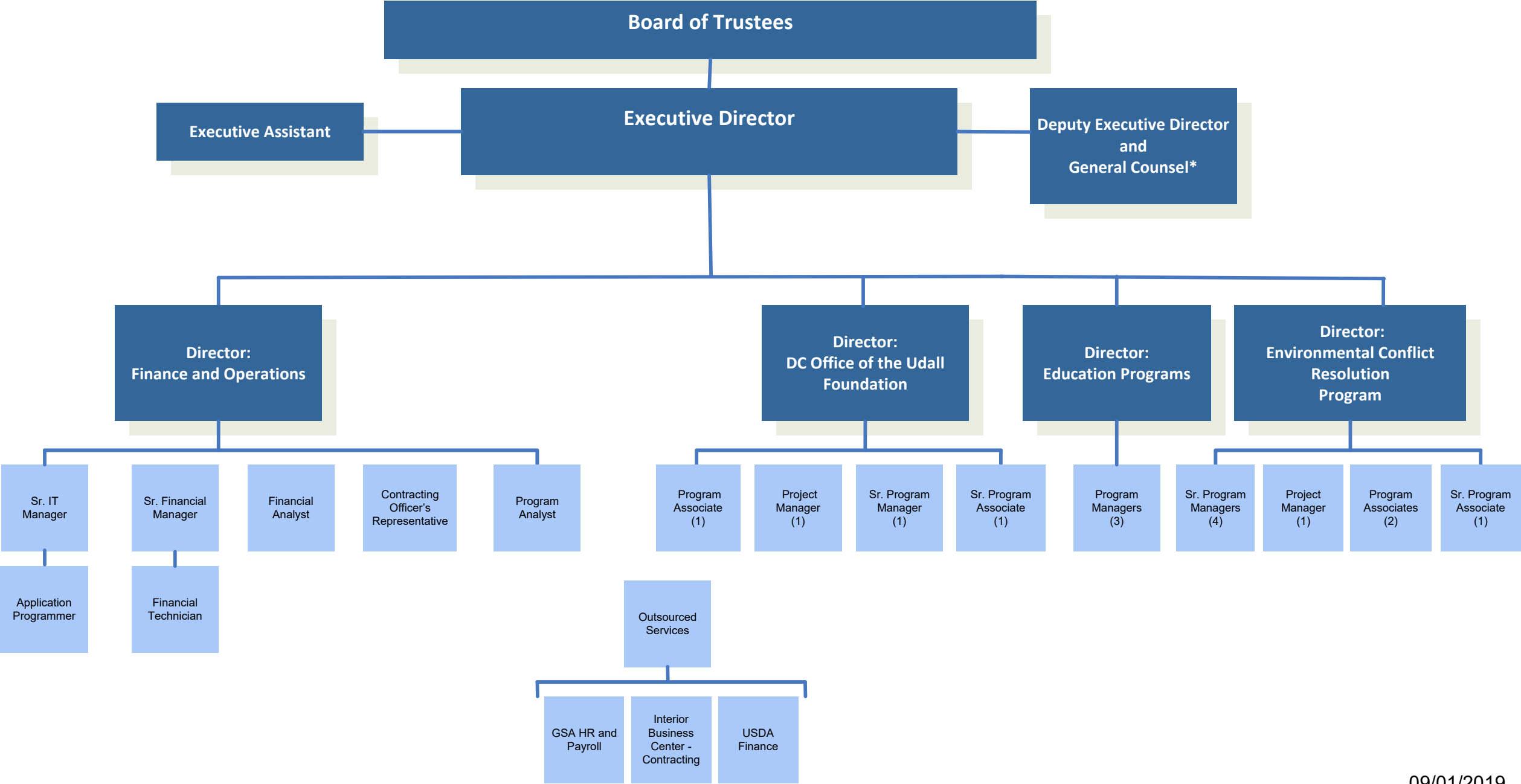
D. Effective Date. Unless otherwise provided by these Operating Procedures, amended Operating Procedures shall become effective on the date of their adoption.

E. Amendment Date. Amendments to the Operating Procedures (hereinafter known as “1st Amendment”) as reflected above were adopted at a regularly scheduled and properly noticed meeting of the Board on April 16, 2015, by a vote of 9 in favor, 0 opposed and 0 abstaining.

F. Amendment Date. Amendments to the Operating Procedures (hereinafter known as “2nd Amendment”) as reflected above were adopted at a regularly scheduled and properly noticed meeting of the Board on November 21, 2019, by a vote of 9 in favor, 0 opposed and 0 abstaining.

The Morris K. Udall and Stewart L. Udall Foundation

Organizational Chart



* Also a direct report to the Board

Duties and Responsibilities of the Chair Udall Foundation Board of Trustees

The Operating Procedures of the Udall Foundation Board of Trustees describe the responsibilities of the Board of Trustees as follows:

The Foundation is subject to the supervision and direction of the Board of Trustees (Board). It is the Board's role and duty to appoint the Executive Director and other senior management staff as provided for in these Operating Procedures; fix the compensation of the Executive Director and up to four additional senior management staff; approve the organizational structure for the staff of the Foundation; approve the Foundation's budget; arrange for an annual financial audit; set policies, including internal controls, for the conduct and management of the agency's finances, personnel, and programs to be implemented by staff; and approve the strategic direction and priorities for the Foundation. (Article III.A.)

More specifically, the Chair is responsible for:

- a. Regularly interacting with the Executive Director¹ and other senior staff of the Foundation or other staff members as the Board Chair deems necessary in consultation with the Executive Director;
- b. Day-to-day supervision of the Executive Director and senior staff of the Foundation and of the direction of the programs of the Foundation;
- c. Representing the Foundation before Congress and other agencies of the Executive Branch as well as Indian tribes and state and local governments as necessary to carry out the purposes of the Foundation; and,
- d. Establishing, with Board approval, ad hoc committees outside of the standing committees to address Foundation needs as they arise, the Board Chair to be a voting, ex officio member of each such committee.

Following is a more detailed description of how these duties are carried out:

APPROPRIATIONS

This is one of the most important responsibilities of the Chair, and requires:

- Maintaining relationships with the Appropriations Committees as well as key members of the Arizona congressional delegation and their staff is fundamental to ensuring continuing support for the annual appropriations for the Education programs and the U.S. Institute appropriation. This includes
 - At least one annual trip to DC (generally in March, to meet with staffers, Committee members, CEQ and OMB.

¹ References to the Executive Director include the General Counsel and Deputy Executive Director as appropriate from time to time on specific matters.

- Watching the appropriations calendar to prepare for possible questions/reach back on the Foundation’s mission and use of appropriations.
- Working with the Office of Management & Budget on the annual budget submissions, including:
 - Requesting guidance on the application of the statutory funding guidance from OMB
 - Interacting regularly to respond to questions from OMB
 - Reviewing and approving (often on tight timelines) the annual budget submission, Congressional justification and the annual Performance & Accountability Report, including the independent audit and financial statements.
- Working closely with the Executive Director and the Director of Finance & Operations on the Annual Budget, including responding to any formal questions or findings of the IG or the auditors.
- Ensuring corrective action plans are established to address the findings and recommendations of the auditors, IG and GAO.
- Requiring regular reports to the Chair/Vice Chair on progress on those corrective action plans (in addition to the reports provided by the Executive Director at the semi-annual Board Meetings).
- Responding to questions each year from the outside auditors as part of their independent review of the Foundation’s financial records.
- Reviewing and approving or disapproving the requests of the Executive Director and the Director of Finance and Administration for timely investment of the Trust Fund and the EDRF in federal securities.

BOARD OPERATIONS:

- As stated above, the Chair establishes any ad hoc committees to address Foundation needs, and votes on those committees.
- The Chair calls the meetings of the Board and the Executive Committee, coordinates with the Executive Director and the Executive Assistant on the dates and agendas of those meetings, as well as chairing the meetings.

PERSONNEL

- Conduct the annual performance review for the Executive Director.
- The Chair provides input into the performance appraisal for the General Counsel.
- Maintain regular direct communications with the General Counsel.
- The Chair is the final “step” in disciplinary or performance-related actions involving senior Foundation leadership. The Executive Director proposes such actions, the Vice Chair generally makes the decision, and the Chair is the “appellate” authority when necessary.

COMMUNICATION WITH THE EXECUTIVE DIRECTOR

- Biweekly telephone calls with the Executive Director and the General Counsel to ensure that the Board’s duty to “supervise and direct” the operations of the Foundation is being fulfilled.

- Regular availability to the Executive Director to answer questions, provide guidance and represent the Board on policy matters. This frequently entails several telephone calls and e-mails each week. Topics may be as simple as “do you approve this Agenda/these Resolutions to be presented at the Board meeting?” or may involve significant advice on Foundation direction, the wisdom of accepting a specific project or a new line of work, or new proposals for Foundation structure or management.

SCHOLAR and INTERN PROGRAMS

- Participate in the orientation program and the awards program for the DC Interns each summer. This requires two trips to DC, one in June and one in July.
- Participate in the Scholar orientation program every August in Tucson.

MEDIA RELATIONS

- Be available as and when necessary to respond to inquiries from print, broadcast, cable and electronic media.