UNITED STATES SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 22, 2023

DAY ONE BIOPHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Delaware	
(State or other jurisdiction	
of incorporation)	

001-40431 (Commission File Number)

83-2415215 (IRS Employer Identification No.)

2000 Sierra Point Parkway, Suite 501 Brisbane, California (Address of principal executive offices)

94005 (Zip Code)

Registrant's telephone number, including area code: (650) 484-0899

N/A (Former name or former address, if changed since last report)

following provisions:	g is intended to simultaneously satisfy the ining	obligation of the registrant under any of the	
Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)			
Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)			
Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))			
☐ Pre-commencement communications pursuant to	Rule 13e-4(c) under the Exchange Act (17 CF)	R 240.13e-4(c))	
Securities registered pursuant to Section 12(b) of the Act:			
Title of each class	Trading Symbol(s)	Name of each exchange on which registered	
Common Stock, par value \$0.0001 per share	DAWN	Nasdaq Global Select Market	
Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 13b 3 of the Securities Exchange Act of 1934 (§ 240.12b 3 of this chapter)			

chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company ⊠

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. $\ \Box$

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

As noted below, on June 22, 2023, the stockholders of Day One Biopharmaceuticals, Inc. (the "*Company*") approved an amendment to the Company's Restated Certificate of Incorporation (the "*Certificate of Amendment*") to permit the exculpation of officers as permitted pursuant to recent amendments to the Delaware General Corporation Law. On June 22, 2023, the Company filed the Certificate of Amendment with the Delaware Secretary of State to effect such amendment. A copy of the Certificate of Amendment is filed as Exhibit 3.1 to this Current Report on Form 8-K.

Item 5.07. Submission of Matters to a Vote of Security Holders.

On June 22, 2023, the Company held its 2023 Annual Meeting of Stockholders and the following proposals were adopted:

1. Election of two Class II Directors, Scott Garland and John Josey, Ph.D., M.B.A., each to serve a three-year term, which will expire at the 2026 Annual Meeting of Stockholders and until such time as their respective successors have been duly elected and qualified or until such director's earlier resignation or removal. The vote tally was as follows:

Nominees	Shares For	Shares Withheld	Broker Non-Votes
Scott Garland	63,229,607	394,746	2,758,766
John Josey, Ph.D., M.B.A.	52,093,255	11,531,098	2,758,766

2. Ratification of appointment of Ernst & Young LLP as the independent registered public accounting firm of the Company for its fiscal year ending December 31, 2023. The vote tally was as follows:

	Shares For	Shares Against	Shares Abstaining
Ī	66,370,613	12,503	3

3. Approval of an amendment to the Company's Restated Certificate of Incorporation to limit the liability of certain officers of the Company as permitted pursuant to recent amendments to the Delaware General Corporation Law. The vote tally was as follows:

Shares For	Shares Against	Shares Abstaining	Broker Non-Votes
56,885,240	6,732,313	6,800	2,758,766

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	<u>Description</u>
3.1	Certificate of Amendment to Restated Certificate of Incorporation, filed June 22, 2023.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

DAY ONE BIOPHARMACEUTICALS, INC.

Date: June 23, 2023

By: /s/ Charles N. York II, M.B.A.

Charles N. York II, M.B.A.

Chief Operating Officer and Chief Financial Officer

CERTIFICATE OF AMENDMENT OF RESTATED CERTIFICATE OF INCORPORATION OF DAY ONE BIOPHARMACEUTICALS, INC.

Day One Biopharmaceuticals, Inc. (hereinafter called the "Corporation"), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "General Corporation Law"), does hereby certify as follows:

- 1. That the name of this Corporation is Day One Biopharmaceuticals, Inc., and that this Corporation was originally incorporated pursuant to the General Corporation Law on May 26, 2021 under the name Day One Biopharmaceuticals, Inc. The Restated Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on June 1, 2021, as amended (the "**Restated Charter**").
 - 2. Amendment to Article SEVENTH.
 - (a) Article SEVENTH of the Restated Charter is hereby amended and restated in its entirety as follows:

"ARTICLE VII: LIMITATION OF LIABILITY

- **1.** <u>Limitation of Liability</u>. To the fullest extent permitted by law, neither a director of the Corporation nor an officer of the corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director or officer, as applicable. Without limiting the effect of the preceding sentence, if the General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a director or officer, then the liability of a director or officer of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law, as so amended.
- **2.** <u>Change in Rights</u>. Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of this Restated Certificate of Incorporation inconsistent with this Article VII, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director or officer of the Corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision."
- 3. That the foregoing amendment was duly adopted by the Board of Directors of the Corporation in accordance with Sections 141 and 242 of the General Corporation Law and was approved by the holders of the requisite number of shares of capital stock of the Corporation acting by written consent in accordance with Sections 228 and 242 of the General Corporation Law.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment on this 22nd day of June, 2023.

By: /s/ Charles N. York II

Name: Charles N. York II

Title: Chief Financial Officer