

**Cal State East Bay Educational Foundation
By-Laws**

Revised January 2023

**ARTICLE 1.
NAME**

The name of this corporation (hereinafter referred to as "Foundation") shall be "The Cal State East Bay Educational Foundation."

**ARTICLE 2.
OFFICES**

**SECTION 1.
PRINCIPAL OFFICE**

The principal office for the transaction of the business of this Foundation ("principal business office") is located at California State University, East Bay, Alameda County, California 94542. The Board of Trustees may change the principal business office from one location to another. Any change of this location shall be noted by the Vice President for University Advancement/Foundation President on these bylaws opposite this Section, or this Section may be amended to state the new location.

**SECTION 2.
OTHER OFFICES**

The Board of Trustees may at any time establish branch or subordinate offices at any place or places where the Foundation is qualified to do business.

**SECTION 3.
PURPOSES**

The purposes of this Foundation shall be:

1. That it is a corporation which does not contemplate pecuniary gain or profit to the Trustees thereof.
2. To promote and assist the educational services of California State University, East Bay, or such institution as shall succeed to the properties and functions of said University, and to apply the funds and properties coming into its hands toward furthering the educational services carried on or approved by the administrative officers of California State University, East Bay.

**SECTION 4.
NONPARTISAN ACTIVITIES**

This Foundation has been formed under the California Nonprofit Public Benefit Corporation Law for the public purposes described above, and it shall be nonprofit and nonpartisan. No substantial part of the activities of the Foundation shall consist of the publication or dissemination of materials with the purpose of attempting to influence legislation, and the Foundation shall not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office or for or against any cause or measure being submitted to the people for a vote.

The Foundation shall not, except in an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes described above.

**SECTION 5.
DEDICATION OF ASSETS**

The properties and assets of this nonprofit corporation are irrevocably dedicated to charitable purposes. No part of the net earnings, properties, or assets of this Foundation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any Trustee of this Foundation. After payment or provision for payment of all debts and liabilities, all properties and assets and obligations shall be distributed and paid over to a nonprofit organization(s) dedicated to the same or similar charitable purposes, provided that the organization(s) is dedicated to the exempt purposes as specified in Internal Revenue Code Section 501(c)(3).

**SECTION 6.
MEMBERS**

The Foundation is not a membership organization and shall not have members within the meaning of the California Nonprofit Corporation Law.

**ARTICLE 3.
TRUSTEES**

**SECTION 1.
CORPORATE POWERS**

Subject to the provisions of the laws governing auxiliary organizations of the California State University and by the California Nonprofit Corporation Law and any limitations in the articles of incorporation and these bylaws, the business activities and affairs of the Foundation shall be managed, and all corporate powers shall be exercised, by or under the direction of a board of trustees which shall be known as the Board of Trustees.

Without prejudice to these general powers, and subject to the same limitations, the

Trustees shall have the power to:

1. To enter into, make and perform contracts and agreements; to purchase or otherwise acquire, hold, lease, encumber, sell, assign, transfer, mortgage, pledge, exchange or otherwise dispose of any securities, evidence of debt or other property in the same manner and to the same extent as a natural person might or could do;
2. To sue and defend; to borrow money and give promissory notes or bonds therefor and secure payment thereof by mortgage or deed of trust; to loan money upon or without security;
3. To take gifts of both real and personal property; to receive bequests and devises by will or upon trusts to the same extent as a natural person;
4. To serve as Trustee of any trust in which this Foundation is a named beneficiary;
5. To do whatever may be necessary or convenient in the conduct of its business to accomplish the purposes of said Foundation;
6. Adopt, make, and use a corporate seal and alter the form of the seal and certificate;
7. Trustees shall receive no compensation for serving on the Board or on any committee;
8. Borrow money and incur indebtedness on behalf of the Foundation and cause to be executed and delivered for the Foundation's purposes, in the Foundation's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidence of debt and securities.
9. Contract with other related or unrelated nonprofit corporations for the use of employees, agents, or services.
10. To perform all other acts within or without the State of California to the same extent as a natural person could do.

SECTION 2. COMPOSITION

The Board of Trustees shall be composed as follows:

1. Elected Trustees: The number of Trustees shall be not less than sixteen (16) nor more than thirty-five (35) with the exact number of authorized Trustees to be fixed by resolution of the Board of Trustees.
2. Ex-Officio Trustees: The President of the University, the Provost, the Vice President of University Advancement, the Vice President of Administration- and Finance, a representative from the Alumni Association, a representative from the student body, and a representative from the faculty as selected by the University. President shall serve as Trustee with voting privileges.
3. Emeritus Trustees: Any elected Trustee who has served for four years or more may be elected as an Emeritus Trustee and shall serve without voting privileges.
4. Honorary Trustee: Any individual may be elected an Honorary Trustee on the basis of special service to the Foundation and shall serve without voting privileges.

SECTION 3.

NOMINATION AND ELECTION

1. Only persons who have been nominated for election by one or more members of the Board and whose nomination has been approved in writing by the President of California State University, East Bay may be elected as Trustees.
2. The Governance Committee will prepare a single slate of nominees equaling the number of expiring terms and vacancies due to other causes. The Governance Committee report listing nominees shall accompany the meeting agenda, and the election will be held during the regular business of the meeting.
3. Trustees not serving by virtue of their position whose terms are expiring shall be elected at the last regular meeting of the fiscal year. Election to new Trustee positions authorized by the Board shall take place at the direction of the Board. If the last scheduled meeting is not held or the Trustees are not elected at the last scheduled meeting, they may be elected at any special meeting held for that purpose. Each Trustee, including a Trustee elected to fill a vacancy or elected at a special meeting, shall hold office until expiration of the term for which elected and until a successor has been selected and qualified.

SECTION 4.

TERMS OF OFFICE

1. Except as specified herein, Trustees' terms of office shall be from July 1 following their date of election by the Board, and such term shall be for three (3) years. A Trustee may serve for three (3) terms, in addition to a short-term resulting from an appointment prior to a full term to fill a vacancy or due to the increase in the number of Trustees. Trustees of the initial Board of the Foundation who are not serving as a result of position, and any Trustee appointed to fill a vacancy created by an increase in the authorized number of Trustees, shall serve for an initial one, two or three year term as determined by the Foundation President, in consultation with the University President and the Chair of the Board, so that the re-election of such Trustees is staggered in thirds.
2. Other than the faculty Trustee, student Trustee, and the California State University, East Bay Alumni Association Trustee, a Trustee serving as a result of position shall serve as Trustee as long as he or she holds the position.
3. Ex-Officio Trustees representing the Alumni Association, the student body, and the faculty shall serve for one year but may be reappointed to serve additional consecutive one-year terms.
4. The Immediate Past Chair of the Foundation may serve as Trustee for a term of one year immediately following their service as Chair of the Foundation, regardless of whether that year would otherwise exceed the maximum number of terms that a Trustee may serve.
5. Any Trustee who serves as a result of position shall cease to qualify and serve as Trustee if they cease to hold the position that qualifies them as a Trustee.
6. There shall be no specified term of office for Emeritus and Honorary Trustees.

SECTION 5.

RESIGNATION, REMOVAL AND VACANCIES

1. Subject to the provisions of Section 5226 of the California Nonprofit Corporation Law, any Trustee may resign effective upon giving written notice to the Chair of the Board, the President of the Foundation, or to the Secretary of the Board, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be selected before such time, to take office when the resignation becomes effective, assuming the nomination has been approved in writing by the President of California State University, East Bay.
2. Any Trustee or Trustees may be removed from office without cause if such removal is approved by a majority of the Trustees then in office, assuming the removal has been approved in writing by the President of California State University, East Bay. The Board may declare vacant the office of a Trustee who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final court or judgment of any court to have breached any duty arising under Sections 5230 through 5238 of the California Nonprofit Corporation Law, et seq. No reduction of the authorized number of Trustees shall have the effect of removing any Trustee prior to the expiration of the Trustee's term of office.
3. Vacancy or vacancies in the Board of Trustees shall be deemed to exist on the occurrence of the following: (i) the death, resignation, or removal of any Trustee; (ii) the declaration of resolution of the Board of Trustees of a vacancy of the office of a Trustee who has been declared of unsound mind by an order of court or convicted of a felony or has been found by final order or judgment of any court to have breached a duty generally under Part Two of Chapter Two, and specifically under section 5230 et seq. (relating to Standards of Conduct) of the California Nonprofit Corporation Law, or (iii) the increase of the authorized number of Trustees.
4. No reduction of the authorized number of Trustees shall have the effect of removing any Trustee before that Trustee's term of office expires.
5. Vacancies on the Board may be filled by approval of the Board or, if the number of Trustees then in office is less than a quorum, by the affirmative vote of a majority of the Trustees then in office at a meeting held pursuant to notice complying with this Article.

SECTION 6.

STANDARD OF CONDUCT

A Trustee shall perform their duties as Trustee, including duties as a member of any committee of the Board of Trustees, in good faith, in a manner such Trustee believes to be in the best interests of the Foundation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

No member of the Board of Trustees shall be financially interested in any contract or other transaction entered into by the Board of Trustees that is not in accordance with the conflict of interest provisions set forth in Education Code Sections 89906-89909.

A Trustee shall abstain from voting in any matter in which the Trustee has a personal or financial interest as provided herein or in the California Education Code and shall excuse themselves from board discussions involving such matters.

ARTICLE 4. COMMITTEES

SECTION 1. GENERAL

The Foundation shall have standing committees and other such special committees as the Chair and/or the Board deems necessary or desirable. The Chair of the Foundation Board shall appoint the Chair and the members of each committee.

With the exception of the Executive Committee and the Governance Committee, individuals with expertise in given areas may serve as consulting members and vote on any committees of the Board, with the approval of the Chair of the Foundation in consultation with the relevant committee chair. The majority of the members of any committee must always be Foundation Trustees. The Chair and the President of the Foundation shall be ex-officio voting members of all committees except the Chair shall not have a vote on the Governance Committee.

SECTION 2. EXECUTIVE COMMITTEE

There shall be an Executive Committee of the Foundation comprised of the following members of the Board: Chair of the Board, Vice Chair(s), Past Chair of the Board, President of the Foundation, Secretary, Treasurer, University President, chairs of the standing committees. During the intervals between meetings of the Board, the Executive Committee shall have and may exercise all of the authority of the Board.

SECTION 3. FINANCE AND INVESTMENT COMMITTEE

There shall be a Finance and Investment Committee, which advises the Board in regard to the general fiscal policy and fiscal management of the Foundation.

SECTION 4. DEVELOPMENT COMMITTEE

There shall be a Development Committee, which shall advise on and be involved in the university's fund-raising programs, including program review, and the identification,

cultivation, solicitation, and stewardship of donors and prospective donors. This committee may create sub-committees focused on various aspects of development (e.g., annual giving, campaign, major gifts, events, planned gifts, corporate and foundation gifts, stewardship.)

There shall be a sub-committee of the above-named Development Committee named the Gift Acceptance Committee, which will meet at the call of the Chair to provide guidance on specific or unusual funding agreements. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Gift Acceptance committee of the Foundation.

The Gift Acceptance Committee shall consist of:

- Vice President of University Advancement / President of the Educational Foundation
- University Provost
- Vice President of Administration and Finance / Treasurer
- Chair of the Board of Trustees
- Chair of the Development Committee
- A member of the Finance and Investment Committee

The Foundation President shall serve as the Chair of the Gift Acceptance Committee. The Chair shall consult with the University President prior to any meeting of the Gift Acceptance Committee. For more detailed information on the Gift Acceptance Committee, see the Gift Acceptance Policy.

SECTION 5. GOVERNANCE COMMITTEE

There shall be a Governance Committee, which advises the Board in regard to all matters dealing with Trustee recruitment, effective participation, and the quality of their board experience. The Immediate Past Chair of the Foundation, if a member of the board, shall be an ex officio member.

1. Nominations: The Governance Committee shall present candidates to the Board of Trustees for the following offices:
 - a. Elected members of the Board
 - b. The Chair, Vice Chair, Secretary
 - c. Emeritus Trustees
 - d. Honorary Trustees
2. Procedures: Nominations may be made by any Trustee by submitting such nominations in writing to the committee at least 20 days preceding the date of the meeting at which such office is to be filled. Names not so presented to the committee shall not be considered by the Board. The Committee shall distribute in writing to the Board the recommended candidate(s) for each office to be filled at

least fifteen (15) days preceding the date of the meeting at which such offices will be filled.

SECTION 7.

AUDIT OVERSIGHT COMMITTEE

There shall be an Audit Oversight Committee of the Board. The Committee will make recommendations to the Board regarding the retention and termination of the independent auditor and is authorized to negotiate the independent auditor's compensation. It will also confer with the auditor to satisfy the members of the Board that the financial affairs of the Foundation are in order.

It shall review and determine whether to accept all audits of the Foundation, ensure that any non-audit services performed by the auditing firm conform to standards for auditor independence and approve the performance of non-audit services by the auditing firm.

Additionally, the Committee shall review any management letters received from the auditing firm. It shall determine the appropriateness of plans for compliance with any comments about management's performance in such documents. It shall meet after each audit has been completed and as often as necessary after that to ensure appropriate audit compliance is reached. The Committee shall advise the Board of Trustees with regard to compliance with audit recommendations.

The Committee shall be appointed as follows:

Members of the audit committee should understand basic financial terminology, possess the ability to read and interpret financial statements, be knowledgeable of business risk, and have an understanding compliance issues unique to the Foundation. Furthermore, one or more independent members should be a financial expert, possessing professional knowledge of financial reporting (including GAAP) and internal controls over financial reporting.

The Committee shall report any pertinent findings or concerns directly to the entire Board of Trustees. All actions taken by the Committee are subject to the supervision of the Board. The Committee may not take any actions independently on behalf of the Foundation.

SECTION 8.

LIMITATIONS ON COMMITTEES

Any committee, to the extent provided in the resolution of the Board, or in the bylaws, shall have all the authority of the Board, except that no committee, regardless of Board resolution, may:

1. Take any final action on matters which under the California Nonprofit Corporation Law also requires approval of the Board of Trustees;
2. Fill vacancies on the Board of Trustees or in any committee which has the

- authority of the Board;
3. Amend the Articles of Incorporation;
 4. Amend or repeal bylaws or adopt new bylaws;
 5. Adopt the annual budget for the Foundation, any Foundation policies, and any long- term plans;
 6. Amend or repeal any resolution of the Board of Trustees which by its express terms is not so amendable or repealable;
 7. Appoint any other committees of the Board of Trustees or the members of these committees;
 8. Expend Foundation funds to support a nominee for Trustee after there are more people nominated for Trustee than can be elected;
 9. Approve any transaction (i) to which the Foundation is a party, and one or more Trustees have a material financial interest, or (ii) between the Foundation and one or more of its Trustees or between the Foundation or any person in which one or more of its Trustees have a material financial interest.

SECTION 9.

TERMS OF COMMITTEE SERVICE

The term of office for each committee member will be (1) year and may be re-elected for subsequent terms with the exception of ex-officio appointed officers, who serve as long as they hold their university position. Committee member terms coincide with the Foundation's fiscal year. Committee Chairs serve (2) year terms and may be re-elected for one subsequent term.

ARTICLE 5. MEETINGS

SECTION 1.

MEETINGS

1. There shall be no more than four (4) regular meetings per fiscal year. Written notice of regular meetings shall be provided to the Board at least twenty-one (21) days in advance of the meeting. Regular meetings of the Board of Trustees may be held at any place within or outside the State of California that has been designated from time to time by the bylaws or by resolution of the Board. In the absence of such designation, regular meetings shall be held on the campus of California State University, East Bay. Notwithstanding the above provisions, a regular or special meeting of the Board of Trustees may be held at any place consented to in writing by a majority of the Board members, prior to such meeting.
2. All regular and special meetings of the Board and its committees shall be open and public except as otherwise provided in the California Education Code. Notice to any outside individual or entity will follow procedures established by

- the provisions of the California Education Code, Section 89900, et seq.
3. Annual Meetings: The Board of Trustees shall hold an annual meeting for the purpose of organization and election of Trustees and Officers. The time and place of the annual meeting shall be fixed by the President of the Foundation, and written notice of such time and place shall be given to each Trustee at least thirty days before the selected date.
 4. Special Meetings: Special Meetings of the Board may be called by the President of the Foundation and/or Chair of the Board and/or by one-fourth of the Board in writing with due written notice of the time, place and subject matter given to each Trustee at least ten days before the meeting date.

SECTION 2. DISTANCE PARTICIPATION

Any meeting, regular or special, may be held by conference telephone, live web conferencing or similar live communication equipment, so long as each Trustee participating in the meeting can communicate concurrently with all other Trustees, and each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation, and all Trustees participating in the meeting can hear one another; all Trustees communicating in such a manner shall be deemed to be present in person at such a meeting.

SECTION 3. QUORUM

A majority of the Board of Trustees shall constitute a quorum for the transaction of business, except to adjourn. Every act or decision done or made by a majority of the Trustees present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Trustees, subject to the provisions of the California Nonprofit Corporation Law, especially those provisions relating to (i) approval of contracts or transactions in which a Trustee has a direct or indirect material financial interest, (ii) appointment of committees, and (iii) indemnification of Trustees. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Trustees, if any action taken is approved by at least a majority of the required quorum for that meeting.

SECTION 10. POWERS

The Board of Trustees shall manage and govern the business affairs of the Foundation and in connection therewith, the Board may exercise all of the powers granted by the Foundation by law and under its Amended Articles of Incorporation.

ARTICLE 6. OFFICERS

SECTION 1. OFFICERS

The officers of the Foundation shall consist of a Chair of the Board, a President, one or more Vice Chair(s), a Secretary, a Treasurer and such other officers as may be elected in accordance with provisions of these by-laws. The Chair of the Board, the Vice Chair(s) of the Board and the Secretary shall be chosen from among the elected Trustees of the Foundation. The University's Vice President for University Advancement shall serve as the Foundation President and the University's Vice President for Administration and Finance shall serve as the Foundation Treasurer

SECTION 2. ELECTION OF OFFICERS

The Chair and Vice Chair, with the exception of the Foundation President and the Treasurer, shall be elected every two (2) years by the Board of Trustees at the last meeting of the fiscal year. The Governance Committee shall prepare a single slate of nominees for the offices and their report, listing nominees, shall accompany the meeting agenda. The election will be held during the regular business of that meeting.

Nominations from the floor shall be called for and, should there be more than one nominee for a vacancy, a vote of the Trustees shall be taken and the nominee receiving the greatest number of votes shall be declared elected.

SECTION 3. REMOVAL OF OFFICERS

Subject to the rights, if any, of an officer under any contract of employment, any officer except those who serve as officers by virtue of a university position may be removed, with or without cause, by the Board of Trustees, at any regular or special meetings of the Board.

SECTION 4. RESIGNATION OF OFFICERS

Any officer may resign at any time by giving written notice to the Foundation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Foundation under any contract to which the officer is a party.

**SECTION 5.
VACANCIES IN OFFICES**

A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled only in the manner prescribed in these bylaws for regular appointments to that office.

**SECTION 6.
DUTIES**

1. The Chair shall preside over all meetings of the Board and shall have primary responsibility for the Foundation's relationship with the University.
2. The President shall be the Chief Executive Officer of the Foundation and shall have the duties usually discharged by the President of a corporation.
3. A Vice Chair shall have full authority to act for the Chair in their absence or incapacity. If more than one Vice Chair is available, the one with the longest continuous service on the Board shall act as the Chair.
4. The Secretary shall have supervision over the records of the Foundation and shall record the minutes of all meetings of the Board and the Executive Committee.
5. The Treasurer shall supervise the fiscal affairs of the Foundation and shall provide such financial information as required by policies and procedures for auxiliary organizations. The Vice President for Administration and Finance of the University shall serve as Treasurer.

ARTICLE 7.

EXECUTION OF INSTRUMENTS

Contracts and other instruments to be executed by the Foundation shall be signed, unless otherwise required by law, by the Chair, the President of the Foundation or a Vice Chair in conjunction with the Secretary. The Chair, the President of the Foundation or a Vice Chair of the Foundation, signing alone, is authorized and empowered to execute in the name of this Foundation instruments not requiring attestation arising in the day-to-day operation of the business of the Foundation, including, but not limited to, certificates representing stocks, bonds, or other securities. The Board of Trustees may authorize any other person or persons whether or not an officer of the Foundation, to sign any contract or other instrument.

ARTICLE 8. INDEMNIFICATION

TRUSTEES, OFFICERS, EMPLOYEES AND OTHER AGENTS

Right of Indemnity

To the fullest extent permitted by law, the Foundation shall indemnify its Trustees, officers, employees, and other persons described in Section 5238(a) of the California Corporations Code, including persons formerly occupying any such position, against all expenses, judgments, fines settlements and other amounts actually and reasonably incurred by them in connection with any proceeding, as that term is used in that section, and including an action by or in the right of the Foundation, by reason of the fact that the person is or was a person described in that section. Expenses, as used in this bylaw, shall have the same meaning as in Section 5238(a) of the California Corporations Code.

Approval of Indemnity

On written request to the Board of Trustees by any person seeking indemnification under Section 5238(b) or Section 5238(c) of the California Corporations Code, the Trustees shall promptly determine under Section 5238(e) of the California Corporations Code whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238(c) has been met and, if so, the Trustees shall authorize indemnification.

Advancement of Expenses

To the fullest extent permitted by law and except as otherwise determined by the Board of Trustees in a specific instance, expenses incurred by a person seeking indemnification under these bylaws in defending any proceeding covered by those sections shall be advanced by the Foundation before final disposition of the proceeding, on receipt by the Foundation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Foundation for those expenses.

Insurance

The Foundation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, Trustees, employees, and other agents, against any liability asserted against or incurred by any officer, Trustee, employee, or agent in such capacity or arising out of the officer's, Trustee's employee's or agent's status as such.

**ARTICLE 9.
AMENDMENTS**

These By-Laws may be altered, amended, rescinded, or repealed at any meeting of the Board of Trustees by the affirmative vote of a majority of the Board and only with the written consent of the President of California State University, East Bay.

Written notice of any proposed amendment shall be provided to each member of the Board of Trustees not less than ten (10) days prior to any meeting at which such proposed amendment is to be considered.