

RESTATED BYLAWS OF THE BAKERSFIELD COLLEGE FOUNDATION

A California Nonprofit Corporation



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**RESTATED BYLAWS OF
THE BAKERSFIELD COLLEGE FOUNDATION
AS AMENDED AND RESTATED (insert date)**

ARTICLE 1 – NAME

The name of this corporation is The Bakersfield College Foundation (referred to as the “Foundation”).

ARTICLE 2 – ORGANIZATION AND PURPOSE

2.1 Organization. The Foundation is organized as a nonprofit corporation for educational, scientific, cultural, and charitable purposes under and pursuant to the laws of the state of California and shall be so operated during its entire period of existence. The Foundation shall not distribute pecuniary gain, profit, or dividends to any individual Board member. The Foundation is further organized as an “auxiliary organization” of the Kern Community College District (the “College District”) pursuant to Education Code section 72670 and following.

2.2 Purpose. The Foundation is formed to promote the general welfare of Bakersfield College (the “College”) and to support the College’s strategic plan and mission in the following manner:

- A. By assisting and supporting the College in fulfilling its role in serving the community of which it is a part.
- B. By soliciting, raising, and distributing monies, properties, and other assets for construction of buildings, purchase of equipment, and other capital outlay needs.
- C. By soliciting, raising, and distributing monies, properties, and other assets to support curriculum and programming, and to award scholarships, loans, and grants to students on the basis of need and/or merit in accordance with rules and procedures adopted by the Board of Directors of the Foundation.
- D. Have the power to receive property by deed, will, or otherwise, and acquire and hold all property, real or personal, including interests, shares of stock, bonds, and securities of other corporations or other business entities.
- E. Have the power to act as trustee under any trust incidental to the principal objects of the foundation and to receive, hold, administer, and expend funds and property subject to such trust.
- F. Manage, control, grant options, sell for cash or deferred payments, convey, exchange, partition, divide, improve, develop, and repair corporate property.
- G. Have the power to make contracts.
- H. The Foundation has the right to refuse transfer of property or gift if it is deemed by the Board of Directors that it is in the best interest of the Foundation to do so, including, without limitation, instances where the proposed gift contains a condition that involves

acceptance of debt or maintenance, or other expenses or obligation as identified by the Foundation's Board of Directors that may diminish the resources of the Foundation.

2.3. Dedication of Assets. The Foundation's assets are irrevocably dedicated to charitable purposes. No part of the net earnings, properties, or assets of the corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any director or officer of the corporation. On liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the Foundation shall be distributed to a nonprofit fund, foundation, or corporation organized and operated exclusively for charitable purposes and that has established its exempt status under Internal Revenue Code section 501(c)(3). That organization shall be the Kern Community College District for the benefit of the College, if it qualifies as a distributee.

2.4 No Voting Members. The Foundation shall have no voting members within the meaning of the California Nonprofit Public Benefit Corporation Law. Any action for which there is no specific provision in the Nonprofit Public Benefit Corporation Law applicable to a corporation which has no members, and which would otherwise require approval of all members or approval by the members, shall require only approval of the Board of Directors. All rights which would otherwise rest in the members shall rest in the directors unless otherwise indicated in these Bylaws.

2.5 Nonvoting Members. At its discretion, the Board of Directors may admit individuals to one or more classes of nonvoting members; the class or classes shall have such rights and obligations as the Board finds appropriate.

ARTICLE 3 – POWERS OF THE FOUNDATION

Subject to the provisions and limitations of the Nonprofit Public Benefit Corporation Law, the provisions of the California Education Code relating to community college “auxiliary organizations,” and any other applicable laws and regulations, and subject to any limitations in the “Implementing Regulations” of the College District relating to auxiliary organizations and any auxiliary organization agreement between the College District and the Foundation, the Foundation shall possess, enjoy and exercise all of the powers granted to it by law, and shall have the power to pursue its purposes including but not limited to:

- A. Solicit funds.
- B. Acquire, receive by gift, bequest, trust, or otherwise, and hold, encumber, and transfer and/or sell or convey real and/or personal property.
- C. Borrow money, incur indebtedness, and secure the same by mortgage, pledge, or deed of trust of property, real or personal.
- D. Purchase or otherwise acquire properties of any nature whatsoever, and to sell and exchange the same for the sake of acquiring other materials or property which may benefit the College, except where prohibited or restricted by the terms of gift or trust.
- E. Collect debts.
- F. To conduct, maintain, operate, and manage such businesses which will directly or indirectly benefit the College and its educational purposes.

G. Do any and all things necessary or incidental to the realization of its purposes as aforementioned, being guided at all times in its actions as would a prudent person.

ARTICLE 4 – OFFICES OF THE FOUNDATION

4.1 Principal Office. The principal office for transaction of the Foundation's business is on the Bakersfield College campus located at 1801 Panorama Drive, Bakersfield, California, 93305. The Board of Directors is authorized to change said principal office from one location to another.

4.2 Other Offices. The Foundation may establish and maintain offices at such other place within or outside the state of California as the Board of Directors may from time-to-time determine.

ARTICLE 5 – SEAL

The corporate seal shall consist of a circle having on its circumference the words "Bakersfield College Foundation" and within the circle the words "Founded 1975."

ARTICLE 6 – BOARD OF DIRECTORS

6.1 General Powers. The Foundation's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under direction of the Board of Directors.

The Board's powers include but are not limited to the power to borrow money and incur indebtedness on behalf of the Foundation and cause to be executed and delivered for the Foundation's purposes, in the name of the Foundation, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidence of debt and securities. Upon approval of any such borrowing or indebtedness by the Board, the written instrument shall be signed by the Board Chair and the Secretary-Treasurer, or such other officers designated by the Board.

Pursuant to the Implementing Regulations, the Foundation shall not enter into any contract or other business arrangement involving real property, either by lease or purchase, without the prior approval of the Board of Trustees of the College District.

6.2 Number and Qualifications of Directors.

A. Variable Number. The authorized number of voting directors shall be at least 21 and no more than 30. The authorized number of directors may be adjusted, within those limits, by resolution adopted by the vote of the directors then in office. No reduction of the number of directors shall have the effect of removing any director prior to the expiration of the director's term of office.

B. Restriction on Interested Persons as Directors. No more than 20 percent of the persons serving on the Board may be "interested persons." An interested person is (1) any person compensated by the Foundation or the College District for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; and (2) any brother, sister, ancestor, descendant, spouse, of such person. However, any violation of this paragraph shall not affect the validity or enforceability of transactions entered into by the Foundation.

6.3 Designation, Election, and Term of Directors.

A. Designated Directors. The following representatives of the College shall be members of the Board of Directors: the College President, the College Vice-President of Administration & Finance, two additional employees of the College District assigned to the College, as designated by the College President, and the College Academic Senate President. These individuals shall serve on the Board of Directors so long as they are employed in the positions indicated, provided that the College President may withdraw the designation of one or both of the “additional employees” upon written notice to the Foundation and substitute other College District employees assigned to the College.

In addition, one member of the Board of Trustees of the College District designated by the Board of Trustees shall serve on the Board of Directors. That person shall serve on the Board of Directors at the pleasure of the Board of Trustees.

B. Remaining Directors Elected by Directors in Office. Those directors not designated or selected as provided in Subsection A shall be elected by the directors then in office at the annual meeting of the year during which their predecessors’ terms expire, or if not elected at the annual meeting, at a special meeting held for that purpose, or by written ballot. Consideration shall be given to persons having a willingness to contribute time and resources as well as agreeing to serve on behalf of the Foundation in the solicitation of funds. With the exception of the designated seats reserved for representatives of the College as designated in 6.3 A, persons employed by the College District shall not be eligible to serve as elected directors of the Foundation.

The director(s) receiving the most votes shall be elected to the vacant seat(s). Effective December 3, 2020, each elected director shall hold office for a two-year term and until a successor director has been elected and qualified; provided, however, that the Board may from time to time specify a shorter term in order to stagger the terms of the Board so that one-half of the elected directors are elected in any one year. A board member interested in serving multiple terms is not limited to serving a single term. If the authorized number of directors is increased, the terms for the new directors appointed to fill the resultant vacancies under Section 6.5 of these Bylaws shall be set in order to stagger the terms consistent with this Section.

C. Nominations for Elected Directors. At least 30 days before the meeting at which the election of directors is held, the Board Chair shall appoint a committee to nominate qualified candidates for elected board positions. The Executive Director shall forward to each director a list of all candidates nominated by the committee.

6.4 Nonvoting Directors. The following persons shall serve as nonvoting members of the Board of Directors: (1) no more than three Emeritus Directors designated by the Board from among persons who have made an outstanding contribution to the Foundation and served a period of at least eight years on the Board, (2) Honorary Directors designated by unanimous vote of the Board in recognition of service to the Foundation, (3) President of the Bakersfield College Alumni Association, and (4) the Executive Director. Emeritus and Honorary Directors serve as nonvoting directors for life; the Executive Director serves as a nonvoting director only while occupying the position of Executive Director. Nonvoting directors are entitled to attend board meetings, receive meeting notices if requested, and comment on Board business, but their presence shall not count toward a quorum and they may not vote on any matters before the Board.

6.5 Vacancies on Board of Directors.

A. Events Causing Vacancies. A vacancy or vacancies on the Board of Directors shall occur in the event of (1) the death or resignation of any director; (2) the declaration by resolution of the Board of a vacancy in the office of a director elected by the Board who has been convicted of a felony, declared of unsound mind by a court order, or found by final order or judgment of any court to have breached a duty under Nonprofit Public Benefit Corporation Law, Chapter 2, Article 3; (3) the increase of the authorized number of directors; (4) the failure of the directors, at any meeting at which any director or directors are to be elected, to elect the number of directors required to be elected at such meeting; or, (5) an elected director's employment by the College District or Foundation.

B. Resignation of Directors. Except as provided below, any director may resign by giving written notice to the Board Chair or Executive Director. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to become effective. If a director's resignation is effective at a later time, the Board may elect a successor to take office as of the date when the designation becomes effective. Except on notice to the California Attorney General, no director may resign if the Foundation would be left without a duly elected director or directors.

C. Filling Vacancies. Except for vacancies on the Board of Directors for seats which are designated under Section 6.3.A, vacancies on the Board may be filled by approval of the Board or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held according to notice or waivers of notice complying with California Corporations Code Section 5211, or (3) a sole remaining director. Vacancies in seats designated under Section 6.3.A shall be filled by the designating authority.

6.6 Meetings of Board of Directors.

A. Place of Meetings. Meetings of the Board of Directors shall be held at any place within or outside California that has been designated by resolution of the Board or in the notice of the meeting or, if not so designated, at the principal office of the Foundation.

B. Meetings by Telephone or Other Communications Equipment. Trustees may attend any board meeting telephonically or by other communications equipment if they meet all requirements of the Ralph M. Brown Act to attend a board meeting by such means.

C. Annual and Other Meetings. The Board shall hold an annual meeting in May of each year, on a date fixed by the Board, for purposes of organization, election of directors and officers, and transaction of other business. Other general (regular) meetings of the Board may be held at such time and place as the Board may fix from time-to-time.

D. Special Meetings.

(1) Authority to Call. Special meetings of the Board for any purpose may be called at any time by the Board Chair or a majority of the directors then in office.

(2) Notice. Notice of the time and place of special meetings shall be given to each director by (i) personal delivery of written notice; (ii) first-class mail, postage prepaid; (iii) telephone, including a voice messaging system or other system or technology designed to record and communicate messages, either directly to the director or to a person at the director's office who would reasonably be expected to communicate that notice promptly to the director; (iv) telegram; (v) facsimile; (vi) electronic mail; or (vii) other electronic means. All such notices shall be given or sent to the director's address or telephone number as shown on the Foundation's records.

The notice shall be posted in accordance with the Ralph M. Brown Act.

E. Quorum. One-third of the number of authorized directors (but not less than two) shall constitute a quorum for transaction of any business except adjournment. Every action taken or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be an act of the Board, subject to the more stringent provisions of the Nonprofit Public Benefit Corporation Law, including, without limitation those provisions relating to (1) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (2) approval of certain transactions between corporations having common directorships, (3) creation of and appointment to committees of the Board, and (4) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of some directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

F. Waiver of Notice. Notice of a meeting need not be given to any director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings. Notice of a meeting need not be given to any director who attends the meeting and who, before or at the beginning of the meeting, does not protest the lack of notice.

G. Adjournment. Whether or not a quorum is present, a majority of the directors present may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting shall be posted in accordance with the Ralph M. Brown Act.

H. Brown Act and Robert's Rules of Order. Meetings of the Board of Directors (and its Executive Committee, Finance Committee and, if required by law, any other Committees) are subject to the Ralph M. Brown Act, including all Notice Requirements. The conduct of board meetings shall not be governed by Robert's Rules of Order, except that in the event of a procedural dispute on an item of business, the Board may refer to Robert's Rules of Order to resolve the dispute.

I. Director Voting. Each director shall have one vote on each matter presented to the Board of Directors for action. No director may vote by proxy.

6.7 Compensation and Reimbursement of Directors. The directors shall serve as unpaid volunteers; provided, however, that the directors may receive such reimbursement of expenses

as may be established by resolution to be just and reasonable at the time the resolution is adopted.

6.8 Foundation Funds. The Foundation, at its registered or principal office, shall be the repository of Foundation funds and shall keep the accounts and make reports as required by law and as directed by the Board of Directors.

ARTICLE 7 – FOUNDATION COMMITTEES

7.1 Committees of the Board.

A. Creation and Power of Committees. By resolution adopted by a majority of the directors then in office, the Board of Directors may create one or more committees, each consisting of two or more directors and no one who is not a director, to serve at the pleasure of the Board. Appointments to committees of the Board shall be by majority vote of the directors then in office (but not less than two). With the exception of the Executive Committee, the Board may appoint one or more directors as alternate members of any committee who may replace any absent member at any meeting. A committee may exercise the authority of the Board to the extent provided in the board resolution, except that no committee may:

- (1) Fill vacancies on the Board or any committee of the Board;
- (2) Amend or repeal the Articles of Incorporation and Bylaws or adopt new bylaws;
- (3) Amend or repeal any resolution of the Board that by its express terms is not so amendable or repealable;
- (4) Create any other committees of the Board or appoint the members of committees of the Board;
- (5) Expend corporate funds to support a nominee for Director if more people have been nominated for Director than can be elected; and
- (6) Approve any contract or transaction to which the Foundation is a party and in which one or more of its directors has a material financial interest, except as special approval is provided for in Corporations Code section 5233(d)(3).

B. Committee Meetings. Meetings and actions of committees of the Board shall be governed by, held and taken under the provisions of these Bylaws concerning meetings and other board actions, except that the time for general meetings of such committees and calling special meetings of such committees may be set either by board resolution or, if none, by resolution of the committee. Minutes of each meeting shall be kept and shall be filed with the corporate records. The Board may adopt rules for governance of any committee as long as the rules are consistent with these Bylaws. If the Board has not adopted rules, the committee may do so.

C. Quorum. One-third of the number of authorized committee members (but not less than two) shall constitute a quorum for transaction of any committee business except

adjournment. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of some committee members, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

D. Executive Committee. The Foundation shall have an Executive Committee consisting of the following board members: Chair, Vice-Chair, Immediate Past Chair, the College President, and one College Vice-President appointed annually by the College President. Unless limited by a resolution of the Board, the Executive Committee shall have and may exercise all the authority of the Board in management of the business and affairs of the Foundation between meetings of the Board; provided, however, that the Executive Committee shall not have the authority of the Board in reference to those matters enumerated in Sections 6.2 (establishment of authorized number of directors), 6.3 (appointment and removal of officers, agents and employees), 6.5.C (filling board vacancies), 8.2 (election of officers), 8.4 (removal of officers), and 11.1 (indemnification), or otherwise prohibited under Section 7.1.A. All actions of the Executive Committee shall be reported to the full board for consideration for ratification at the next duly scheduled board meeting.

E. Finance Committee. The Finance Committee shall include the Board Chair, Vice-Chair, Secretary-Treasurer, immediate past Board Chair, the College President, and such other directors selected by the Board Chair, not to exceed 11 members. The Finance Committee shall include the following: (1) A quarterly review of financial information of the Foundation with recommendation to the Board, (2) Review of the proposed annual budget with recommendation to the Board, (3) Research of an investment manager with recommendation to the Board, (4) Recommend investment policies to the Board, (5) Review portfolio performance, (6) Review the audited financial statements and management letter with recommendation to the Board, and (7) Selection of an auditor.

7.2 Advisory Committees. By majority vote the Board of Directors may create advisory committees, not exercising the authority of the Board, which serve solely to inform and advise the Board. The members of such committees shall be appointed by and serve at the pleasure of the Board of Directors unless otherwise specified.

A. The Foundation may also form, upon recommendation of the Executive Committee and approval of the majority of the full board, such other committees including, but not limited to, Alumni Development, Endowment Development and Maintenance, and Planned Giving. The membership of these committees may or may not be Directors of the Board and shall be appointed by the Executive Committee with approval from a majority of the full board. These committees shall support the purpose and mission of the Foundation, may make recommendations to the full Board or Executive Committee and shall concentrate their respective efforts to successfully fulfill their areas of expertise.

ARTICLE 8 – OFFICERS OF THE CORPORATION

8.1 Officers. The officers of the Foundation shall be a Chair, Vice-Chair, Immediate Past Chair, Secretary-Treasurer, and such other officers as the Board may from time-to-time appoint. The Secretary-Treasurer shall be the College Vice-President of Administration and Finance. Any number of offices may be held by the same person, except the Secretary-Treasurer may not serve as the Board Chair.

8.2 Election of the Officers. With the exception of the Secretary-Treasurer, the officers of the Foundation shall be elected by the Board of Directors from among its members at the annual meeting of the Foundation and shall serve for a term of two years or until their successors are elected.

8.3 Duties of the Officers.

A. If present, the Chair shall preside over all meetings. The Chair shall appoint all committees as may be directed by the Board of Directors. This position shall not be held by an employee of the College.

B. In the absence of the Chair, or in their disability otherwise, the Vice-Chair shall exercise the powers and discharge the duties of the Chair. This position shall not be held by an employee of the College.

C. The Secretary-Treasurer shall work in conjunction with the Foundation's Accounting Manager who will prepare, keep, and maintain the financial records of the Foundation including but not limited to financial statements, bank and account reconciliation, record entry and books of account, allocation and distribution of funds as directed by the Board, and coordinate the annual audit with the external auditor. The Secretary-Treasurer may execute any documents required by law as an officer of the Foundation. The person holding this position shall be an employee of the College.

All foundation funds shall be maintained and expended in accordance with the requirements of the Implementing Regulations. The Foundation shall secure an indemnity bond for the fiscal officer responsible for handling foundation funds.

8.4 Removal of Officers and Filling Vacancies. With the exception of the Secretary- Treasurer, the Board of Directors may remove any officer with or without cause. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for normal appointments to that office.

ARTICLE 9 – EXECUTIVE DIRECTOR

Subject to the control of the Board, the Executive Director shall be the chief executive officer and general manager of the Foundation and shall supervise, direct, and control the Foundation's activities and affairs. The Executive Director shall have authority to enter into any contract on behalf of the Board for any amount up to \$100,000. The Executive Director shall prepare agendas, keep a record and attend the meetings of the Board of Directors, and shall have charge of the corporate seal and affix the seal to all papers requiring it. The Executive Director shall serve all notices required by law, may conduct official correspondence and shall perform such other duties as may from time to time be required by the Directors or the President of the College. The Executive Director shall also have access to all funds of the Foundation and shall distribute funds in the normal course of the Foundation business and purposes, subject to the authorization by the Board of Directors and with the approval of the Secretary-Treasurer.

The Executive Director shall be responsible for the Foundation's staff and oversee all business of the Foundation. The Executive Director shall also develop the foundation budget, maintain all records, oversee all development and outreach for the Foundation, and suggest resolutions, programs, and policies for the Board's consideration. The Executive Director shall report to the College President and also be responsible to the Board Chair.

In the event of the Executive Director's resignation, retirement, or termination, the Board Chair will request that the Executive Committee select four current community directors and the College President to likewise appoint four persons to form a Screening Committee to advertise, process and screen applications, and choose at least two, and not more than four, finalists for a new Executive Director. The names of these finalists will be forwarded to the College President to make reference and background inquiries, review applications, and interview each finalist. In coordination with the Board Chair, the College President will then provide his or her recommendation of one of the finalists to the College District Chancellor.

The Executive Director shall be a classified management employee of the College District and compensated pursuant the College District's Confidential/Management Salary Schedule. The Executive Director shall be evaluated pursuant to the applicable policies and procedures of the College District.

ARTICLE 10. CONTRACTS AND LOANS INVOLVING DIRECTORS AND OFFICERS

10.1 Contracts with Directors and Officers. No Director of the Foundation nor any other corporation, firm, association, or other entity in which one or more of the Foundation's Directors are directors or have a material financial interest, shall be interested, directly or indirectly, in any contract or transaction, unless

- A. The material facts regarding that Director's financial interest in such contract or transaction or regarding such common directorship are fully disclosed in good faith and noted in the meeting minutes, or are known to all members of the Board of Directors prior to the Board's consideration of such contract or transaction;
- B. Such contract or transaction is authorized in good faith by a majority of the Board by a vote sufficient for that purpose without counting the votes of the interested or common directors (or, in cases involving common directors only, the contract or transaction is just and reasonable as to the Foundation at the time it is authorized or ratified);
- C. In cases involving a material financial interest on the part of a Director, before authorizing or approving the transaction, the Board considers and in good faith decides after reasonable investigation that the Foundation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and
- D. For its own benefit, the Foundation enters into the transaction which is authorized by a majority of the Board by a vote sufficient for that purpose without counting the votes of the interested director(s) which is fair and reasonable to the Foundation at the time of the transaction.

This section does not apply to a transaction that is part of an educational or charitable program of the Foundation if it (1) is approved or authorized by the Foundation in good faith and without unjustified favoritism, and (2) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefitted by the educational or charitable program of the Foundation.

10.2 Loans to Directors and Officers. The Foundation shall not lend any money or property to or guarantee the obligation of any director or officer without the approval of the California Attorney General; provided, however, that the Foundation may advance money to a director or officer of

the Foundation for expenses reasonably anticipated to be incurred in the performance of his or her duties if that director or officer would be entitled to reimbursement for such expenses by the Foundation.

ARTICLE 11. INDEMNIFICATION AND INSURANCE

11.1 Indemnification. To the fullest extent permitted by law, the Foundation shall indemnify its Directors, officers, employees, and other persons described in Corporations Code section 5238(a), including persons formerly occupying any such positions, 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 that section of the Corporations Code.

On written request to the Board by any person seeking indemnification under Corporations Code sections 5238(b) or 5238(c), the Board shall promptly determine pursuant to Corporations Code section 5238(e) whether the applicable standard of conduct set forth in 5238(b) or 5238(c) has been met and, if so, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the Board shall seek approval of the indemnification as permitted by law.

To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under this section 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 found that the person is entitled to be indemnified by the Foundation for those expenses.

11.2 Insurance. The Foundation shall have the right, and shall use its best efforts, to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, Directors, employees, and other agents, to cover any liability asserted against or incurred by any officer, Director, employee, or agent in such capacity or arising from the officer's, Director's, employee's, or agent's status as such.

ARTICLE 12. CORPORATE RECORDS AND REPORTS

12.1 Maintenance of Corporate Records. The Foundation shall keep:

- A. Adequate and correct books and records of account;
- B. Written minutes of the proceedings of its members, Board, and committees of the Board; and
- C. A record of each member's name, address, and class of membership.

The minutes and other books and records shall be kept either in written form or in any other form capable of being converted into clearly tangible form or in any combination of the two. The Foundation shall assess an annual service fee based on principal and interest on all endowment

and designated funds. This fee shall support management and accounting costs associated with the above accounts. This fee shall be established annually by the Board of Directors at its annual meeting.

12.2 Maintenance and Inspection of Articles and Bylaws. The Foundation shall keep at its principal California office the original or a copy of the Articles of Incorporation and Bylaws, as amended to the current date, which shall be open to inspection by the Directors at all reasonable times during office hours.

12.3 Directors' Right to Inspect. Every director shall have the absolute right at any reasonable time to inspect the Foundation's books, records, documents of every kind, physical properties, and the records of each subsidiary. The inspection may be made in person or by the Director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

12.4 Combined Annual Report and Audit. The Board of Directors shall cause an annual report to be sent to the Directors within 120 days after the end of the Foundation's fiscal year.

In accordance with the Implementing Regulations, the report shall include an annual fiscal audit of any and all funds performed by a certified public accountant in accordance with procedures prescribed by the Board of Governors of the California Community Colleges, to be submitted to the College District Board of Trustees and the Board of Governors within 30 days after it is received by the Foundation. The audited financial statement shall be disseminated as required under the Implementing Regulations.

That report shall contain the following information, in appropriate detail:

- A. The assets and liabilities, including the trust funds, of the Foundation as of the end of the fiscal year;
- B. The principal changes in assets and liabilities, including trust funds;
- C. The Foundation's revenue or receipts, both unrestricted and restricted to particular purposes;
- D. The Foundation's expenses or disbursements for both general and restricted purposes; and
- E. Any information required by Section 12.5 of these Bylaws.

12.5 Annual Statement of Certain Transactions and Indemnifications. As part of the annual report described in Section 12.4 or as a separate document if no annual report is issued, the Foundation shall, within 120 days after the end of the Foundation's fiscal year, annually prepare and furnish to each director a statement of any transaction or indemnification of the following kind:

- A. Any transaction (1) in which the Foundation, or its parent or subsidiary, was a party, (2) in which an "interested person" had a direct or indirect material financial interest, and (3) which involved more than \$50,000 or was one of several transactions with the same interested person involving, in the aggregate, more than \$50,000. For this purpose, an "interested person" is either:

- (1) Any Director or officer of the Foundation, its parent, or subsidiary; or

The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Foundation, the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

- B. Any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or Director of the Foundation under Section 11.2 of these Bylaws, unless that indemnification has already been approved by the members under Corporations Code section 5238(e)(2).

- C. The Foundation shall submit its programs and budgets to the College President.

ARTICLE 13 – CONFLICTS OF INTEREST

As a tax-exempt nonprofit, corporation, the Foundation has a special concern with preventing self-dealing and other conflicts of interest on the part of those associated with the Foundation. The Foundation shall adopt a conflict of interest policy to protect the Foundation's interests when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Foundation or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Any action requiring a vote of the Board of Directors may be taken by mail ballot, including electronic mail, provided that reasonable time is given for directors to discuss the matter on which they are being asked to vote. The action shall be effective if a quorum has been met.

ARTICLE 14 – POLICY PROHIBITING POLITICAL ACTIVITIES

As a tax-exempt organization under Section 501(c)3 of the U.S. Internal Revenue Code, the Foundation shall comply at all times with this provision of the IRC and all applicable regulations. The Foundation will not participate in, endorse, contribute, engage in, or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office. To ensure that the Foundation does not jeopardize its tax-exempt status or incur excise taxes on political expenditures, the Foundation, including any individual acting on behalf of the Foundation, will not engage in any of the following activities on Bakersfield College property during any foundation function, or otherwise using the Foundation's resources or facilities:

- A. Endorse any candidate for public office.
- B. Donate or contribute to any candidate's campaign.
- C. Participate or engage in political funding events for any candidate for public office.
- D. Publish or distribute statements for or against any candidate for public office.

ARTICLE 15 – FISCAL YEAR

The fiscal year of the Foundation shall begin on the first day of July and end on the last day of June of each calendar year.

ARTICLE 16 – AMENDMENT

These Bylaws may be altered, amended, suspended, or repealed, and new Bylaws may be adopted by a vote of at least two-thirds of the directors present at any meeting at which a quorum is present (but not less than two). All directors shall be provided a copy of the proposed changes in advance of said meeting.

**History/Changes to the Bylaws of the Bakersfield College
Foundation**

1. The Bylaws were originally adopted on March 23, 1975
2. The Bylaws were duly amended to 22 articles on January 18, 1983.
3. The Bylaws were further amended by action taken by the Board of Directors on May 13, 1998.
4. Additional amendments were made by action of the Board of Directors on September 26, 2000, July 26, 2007, December 4, 2007, June 26, 2008, January 21, 2010, and July 29, 2010.
5. The Bylaws were amended and restated by action of the Board of Directors on December 3, 2020.
6. The bylaws were amended and restated by action of the Board of Directors on (INSERT DATE)