

AMENDED AND RESTATED

**BYLAWS
OF**

**SAN BERNARDINO VALLEY COLLEGE FOUNDATION
a California Nonprofit Public Benefit Corporation**

**ARTICLE I
NAME**

The name of this corporation shall be SAN BERNARDINO VALLEY COLLEGE FOUNDATION (“**Foundation**”).

**ARTICLE II
OFFICES**

The principal office for the transaction of the business of the Foundation (“**Principal Office**”) shall be fixed and located at San Bernardino Valley College, 701 South Mount Vernon Avenue, San Bernardino, California, 92410 or at such other place as the Board of directors shall determine. The directors may change the principal office from one location to another.

**ARTICLE III
MEMBERSHIP**

Section 3.1. Members. The Foundation shall have no members. Any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Board of Directors (the “**Board**”). All rights which would otherwise vest in the members shall vest in the Board.

Section 3.2. Associates. Nothing in this Article III shall be construed as limiting the right of the Foundation to refer to persons associated with it as members even though such persons are not members, and no such reference shall constitute anyone a member, within the meaning of Section 5056 of the California Nonprofit Corporation Law.

**ARTICLE IV
DIRECTORS**

Section 4.1. Powers. Subject to limitations of the articles and these bylaws, the activities and affairs of the Foundation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the activities of the Foundation to any person or persons, a management company, or committees, however composed, provided that the activities and affairs of the Foundation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board shall have the following powers in addition to the other powers enumerated in these bylaws or statute:

(a) To select and remove all the other officers, agents, and employees of the Foundation, prescribe powers and duties for them as may not be inconsistent with law, the articles, or these bylaws, fix their compensation, and require from them security for faithful service.

(b) To conduct, manage, and control the affairs and activities of the Foundation and to make such rules and regulations therefor not inconsistent with law, the articles, or these bylaws, as they may deem best.

(c) To adopt, make, and use a corporate seal and to alter the form of such seal from time to time as they may deem best.

(d) To borrow money and incur indebtedness for the purposes of the Foundation, and to cause to be executed and delivered therefor, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, or other evidences of debt and securities therefor.

(e) To carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage as a tax exempt Foundation. No part of such profits shall inure to the benefit of any of its directors, trustees, officers, members, or to individuals.

Section 4.2. Number and Qualification of Directors. The Board shall be composed of at least twenty one (21) but no more than twenty seven (27) voting directors. No more than forty nine percent (49%) of the Board may be composed of directors who are Interested Persons. For purposes of these bylaws, “Interested Persons” means any:

(a) person currently being compensated by the Foundation for services rendered to it within the previous twelve (12) months, whether as a full or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as a director; or

(b) sibling (natural or adopted), spouse, parent, ancestor, descendant, or in-law of a person described in Section 4.2(a).

Section 4.3. Selection and Term of Office. The Board shall be comprised of voting and non-voting directors as follows:

(a) **Voting Directors.** Voting directors shall be elected at each annual meeting of the Board. Board directors are selected from the community based on their demonstrated support for and interest in the programs and services of the college. One-third (1/3) of the directors shall be elected each year for three (3) year terms expiring on 30th day of June. After serving two (2) full three (3) year terms, a Director shall be ineligible for election for one (1) year. The SBVC President and SBVC designee for Foundation Treasurer shall serve as voting directors.

(b) **Non-Voting Directors.** The following non-voting members shall be appointed to the Board:

(1) **Executive Director.** The San Bernardino Valley College (“SBVC”) Director of Development and Community Relations shall serve as the non-voting Executive Director of the Board and may serve as a non-voting member of one or more committees as provided for herein.

(2) **Honorary Directors.** The Board may designate any number of non-voting Honorary Board members who serve in an advisory capacity. Honorary Board membership

recognizes position, prestige, and/or service to SBVC or the Foundation. Honorary members are appointed by majority vote of the Board based on the recommendation of the Executive Committee. There are two classifications, as follows:

(A) **Emeritus**. A permanent Honor of Distinction given to a long-standing member of the Board who has served for no less than 10 years as a voting director and who no longer serves on the Board; and

(B) **Affiliate**. A person who acts as an Ambassador of the Foundation, publicly advocating for SBVC by virtue of their previous affiliation with SBVC as an alumni, employee, or friend.

(3) **SBVC Organizations**. A representative from each of the following organizations may serve on the Board as a non-voting member of the Board for one-year terms after being elected by their peers as the presidents of their respective organizations:

(A) Associated Student Government;

(B) Academic Senate; and

(C) Classified Senate.

Section 4.4. Vacancies. A vacancy or vacancies in the Board shall be deemed to exist in case of the death, resignation, or removal of any director or if the authorized number of directors is increased.

(a) **Resignation**. Subject to the provisions of Section 5226 of the California Nonprofit Public Benefit Foundation Law, any director may resign effective upon giving written notice to either the chairman of the Board, the president, the secretary, or the Board, unless the notice specified 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.

(b) **Removal by Board Action**. The Board may, by majority vote, reduce the number of authorized directors and/or declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a misdemeanor or felony, or found by a final order of judgment of any court to have breached any duty arising under Article 4 of the California Nonprofit Public Benefit Corporations Law. A voting director may be removed without cause by the recommendation of the Executive Committee and the affirmative vote of two-thirds (2/3) of the voting Quorum (as defined in Section 4.9, below). If the Board reduces the number of authorized directors, no such reduction shall have the effect of removing any director before that director's term of office expires.

(c) **Replacement Directors**. Vacancies in the Board shall be filled in the same manner as the vacant director's seat was selected, namely:

(1) **Election**. Board seats filled by election of the Board may be filled by a majority of the remaining directors, although less than a quorum, or by a sole remaining director; and

(2) **Appointment**. Board seats filled by appointment pursuant to Section 4.3(b) shall be filled in the same manner.

Each director so selected shall hold office until the expiration of the term of the replaced director and until

a successor has been selected and qualified.

Section 4.5. Place of Meetings. Meetings of the Board may be held at any place within or outside the State of California that has been designated from time to time by resolution of the Board. In the absence of such designation, regular meetings shall be held at the Principal Office of the Foundation. Any meeting, regular or special, may be held by conference telephone, video, or similar communication equipment, so long as all directors participating in the meeting can communicate effectively with one another, and all such directors shall be deemed to be present in person at such meeting.

Section 4.6. Annual Meetings. The Board shall hold an annual meeting for the purpose of organization, selection of directors and officers, and the transaction of other business. Annual meetings of the Board shall be held without call or notice on the 2nd Wednesday of June of each year at a time designated by the Board.

Section 4.7. Regular Meetings. Regular meetings of the Board shall be held every other month beginning in January at a time and place to be designated by the Executive Director.

Section 4.8. Special Meetings. Special meetings of the Board may be called for any purpose at any time by the Executive Director, or any two directors acting together, or any officer of the Foundation.

(a) **Notice.** Special meetings of the Board shall be held upon four (4) days' notice by first class mail or forty eight (48) hours' notice given personally or by telephone, electronic mail, or other similar means of communication.

(1) **Written.** Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Any such notice shall be addressed or delivered to each director at such director's address as it is shown upon the records of the Foundation by the director for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place in which the meetings of the directors are regularly held.

Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient.

(2) **Oral.** Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient. The person delivering oral notice must sign an affidavit under penalty of perjury under the laws of the State of California as to the time and date of giving such oral notice.

Section 4.9. Action by Quorum. A majority of the duly elected and acting directors entitled to vote shall constitute a "**Quorum**" for the transaction of business, except to adjourn as provided in **Section 4.12 of this Article IV.** Every act or decision done or made by a majority of the Quorum shall be regarded as the act of the Board, unless a greater number is required by law. A meeting at which a Quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required Quorum for that meeting.

Section 4.10. Participation in Meetings by Conference Telephone. Members of the Board may participate in a meeting through use of telephone, video or similar communications equipment, so long as all Board members participating in such meeting can communicate effectively with one another.

Section 4.11. Waiver of Notice. Notice of a meeting need not be given to any director who:

(a) signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or

(b) attends the meeting, without protesting the lack of notice to such director, prior to its commencement.

All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 4.12. Adjournment. A majority of the voting directors present, whether or not constituting a Quorum, may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent directors unless the meeting is adjourned for more than forty eight (48) hours.

Section 4.13. Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting, if all voting members of the Board consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 4.14. Rights of Inspection. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the Foundation of which such person is a director.

Section 4.15. Committees. Operating committees (either standing or special committees) may be created and abolished by the President or by the Board of Directors, except to the extent that this authority of the President may be specifically limited by a resolution of the Board. Such operating committees shall discharge such responsibility as may be assigned to them. The President, with the approval of the Board of Directors, shall appoint the Members of committees from among the Directors, Officers, professional advisors, and friends of the Corporation. Each committee must consist of at least three (3) voting Directors of the Foundation.

(a) **Committees of the Board.** The Executive Committee shall be a standing committee of the Board. The members of the Executive Committee shall consist of the President, Vice-President, Secretary, Treasurer, and up to three additional Board members appointed by the Board. The Executive Director of the Foundation shall be a non-voting member of the Executive Committee. Subject to such limitations as may be imposed by the Board hereafter, the Executive Committee shall be possessed of all of the powers of the Board, except those which are prohibited under California Law.

(b) The Board shall have the power to prescribe the manner in which proceedings of any such committee shall be conducted. However, no committee, regardless of Board resolution, may:

(1) take any final action on matters which, under California law requires the approval of the Board;

(2) fill vacancies on the Board or in any committee;

(3) fix compensation of the Board or any committee;

- (4) amend or repeal of bylaws or adoption of new bylaws;
- (5) amend or repeal of any resolution of the Board;
- (6) appoint any other committees of the Board;
- (7) expend Foundation funds to support a nominee for director; or
- (8) approve of any self-dealing transaction, as such transactions are defined in Section 5233(a) of the California Nonprofit Public Benefit Corporations Law.

ARTICLE V OFFICERS

Section 5.1. Officers. The officers of the Foundation shall be a president, vice-president, secretary, and treasurer. Officers shall have signature authority as described in Section 6.1 of Article VI of these bylaws.

(a) **Elected Officers.** The elected officers of the Foundation shall be a President and a Vice-President.

(b) **Appointed Officers.** The SBVC President shall serve as the secretary, and a designated employee of SBVC shall serve as Treasurer. Appointed officers shall serve without compensation from the Foundation.

Section 5.2. Election and Term of Office. The President and Vice-President shall be elected from the Board and installed at the annual meeting of the Board. The term of office for the elected officers shall be one (1) year. After serving two (2) consecutive terms as an officer, a director shall be ineligible to serve as an officer for one (1) year.

Section 5.3. Duties. The officers shall have the following duties in addition to any other duty prescribed by the Board from time to time:

(a) **President.** The President shall preside at all meetings and shall perform other duties to fulfill the mission and vision of the Foundation. Prior to serving as President he or she shall serve at least one (1) year on the Board. The President shall also appoint such committees as he or she deems necessary from members of the Board or other interested community members.

(b) **Vice-President.** The Vice President shall, in the absence or disability of the President, have all the power or, and act for, the President.

(c) **Secretary.** The Secretary shall keep a full and complete record of the proceedings of all Board meetings and shall cause records to be kept of all committee meetings. The Secretary shall sign such routine papers and instruments as may be required in the regular course of business, serve such notices as may be necessary and proper, supervise the keeping of the records of the Foundation, and shall discharge such other duties as pertain to the office or as prescribed by the Board.

(d) **Treasurer.** The Treasurer shall be a member of the Finance Committee, which shall monitor the Executive Director's role to receive and safely keep all funds and securities of the Foundation.

The Treasurer shall provide oversight of the Foundation's financial functions, shall work with the Executive Director to ensure that the Board is receiving appropriate financial reports, and shall be available to consult with the Executive Director regarding the Foundation's finances.

Section 5.4. Subordinate Officers. The Board may appoint other subordinate officers that the business of the Foundation may require, each of whom shall have the title, hold office for the period, have the authority, and perform the duties specified in the bylaws or determined from time to time by the Board.

Section 5.5. Removal and Resignation. The President, Vice-President, and Treasurer may be removed, with or without cause, by the Board at any time. Any such removal shall be without prejudice to the rights, if any, of the officer under any contract of employment of the officer.

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 5.6. Vacancies. 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 election or appointment to that office, provided that such vacancies shall be filled as they occur and not on an annual basis.

ARTICLE VI OTHER PROVISIONS

Section 6.1. Endorsement of Documents; Contracts. Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance, or other instrument in writing and any assignment or endorsement thereof executed or entered into between the Foundation and any other person, when signed by the Executive Director or any officer of the Foundation shall be valid and binding on the Foundation. Unless so authorized by the Board, no officer, agent, or employee shall have any power or authority to bind the Foundation by any contract or engagement or to pledge its credit or to render it liable for any purpose or amount.

Section 6.3. Construction and Definitions. Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the General Provisions of the California Nonprofit Corporation Law and in the California Nonprofit Public Benefit Corporations Law shall govern the construction of these bylaws.

Section 6.4. Amendments. These bylaws may be amended or repealed by the approval of a majority of the Board, except as otherwise provided by the California Nonprofit Public Benefit Corporations Law.

ARTICLE VII INDEMNIFICATION

To the fullest extent permitted by law, this corporation shall indemnify its Directors, officers, employees, and other persons described in Section 5238 of the California Corporations Code, including persons formerly occupying any such position. The Foundation or the College will maintain Board Director and Officers' Liability Insurance at all times.

**ARTICLE VIII
NONPARTISAN ACTIVITIES**

This Foundation has been formed under the California Nonprofit Public Benefit Corporations Law as a corporation dedicated to charitable and educational purposes, and it shall be nonprofit and nonpartisan. No substantial part of the activities of the corporation shall consist of the publication or dissemination of materials with the purpose of attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office. The corporation 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.

**ARTICLE IX
DEDICATION OF ASSETS**

The properties and assets of this nonprofit corporation are irrevocably dedicated to fulfillment of the charitable and educational purposes of this corporation meeting the requirements for exemption provided by Section 214 of the Revenue and Taxation Code. No part of the net earnings, properties, or assets of this corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any member or director of this corporation. On liquidation or dissolution, all properties and assets and obligations shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for charitable and educational purposes meeting the requirements for exemption provided by Section 214 of the Revenue and Taxation Code and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

**ARTICLE X
AMENDMENT OF BYLAWS**

Section 10.1. Amendment by Vote. These Bylaws may be amended or repealed and new Bylaws adopted by a majority vote of the Board pursuant to Section 4.9 above, provided notice of all proposed amendments or repeal shall have been given to the Board at least five business days prior to the date of the meeting.

Section 10.2. Record of Amendments. When an amendment or new bylaw is adopted, it shall be copied in the book of bylaws with the original bylaws, in the appropriate place. If any bylaw is repealed, the fact of repeal with the date of the meeting at which the repeal was enacted or written assent was filed shall be stated in said book.

CERTIFICATE OF SECRETARY

I, the undersigned, certify that I am presently the acting Secretary of the San Bernardino Valley College Foundation, a California nonprofit corporation, and the above bylaws, consisting of eight (8) pages, are the bylaws of this corporation duly adopted at a meeting of the Board of Directors held on June 13, 2018.

Dated: 8.16.18



Diana Z. Rodriguez, Secretary