

THE HENDERSON STATE UNIVERSITY FOUNDATION BY-LAWS
(Adopted by Resolution on May 11, 1984 as Subsequently Amended on December 7, 2011;
March 15, 2017; June 14, 2019)

ARTICLE I
NAME

The name of this organization shall be "The Henderson State University Foundation." It is hereinafter referred to as the "Foundation."

ARTICLE II
PURPOSE

The Foundation is an independent, non-profit Foundation chartered by the State of Arkansas to operate exclusively for the benefit of Henderson State University. It is a separate entity from the institution it serves. In the broadest sense, the Foundation functions as a bank for private money received for the benefit of the public state university. The Foundation receives deposits, invests and disburses these funds.

ARTICLE III
ORGANIZATION

Section 3.1 Members. The Foundation shall have no members.

Section 3.2 Management. The affairs of the Foundation shall be managed by the Board of Directors.

Section 3.3 Voting. Voting rights of the Foundation shall be vested solely in the Board of Directors.

ARTICLE IV
BOARD OF DIRECTORS

Section 4.1 Number. The Board of Directors shall consist of not less than nine (9) nor more than twenty (20) persons.

Section 4.2 Ex-Officio. The President of Henderson State University, The Chairman of the Board of Trustees of the University or his designated representative from the Board of Trustees, provided that a Trustee is not serving as a duly elected (Regular) Director of the Foundation, the Vice President for University Advancement, shall be, by virtue of their office, ex-officio Directors of the Foundation without voting rights.

Section 4.3 Election & Term of Office. Directors of the Foundation shall be nominated and elected by the Board of Directors.

Directors shall be elected to a term of four (4) fiscal years. No such Director shall serve for longer than two (2) consecutive terms and may not be elected for any further term unless twelve (12) months have passed since he or she was last a Director.

Following two consecutive terms, a Director in good standing may be appointed to emeritus status by a majority vote of active Directors. Emeritus Directors will serve in an ex-officio capacity.

The Board of Directors shall attempt to elect Directors who individually possess the personal commitment and qualities and who collectively possess the variety of business and professional skills and experience required to enable the Board of Directors to fulfill its roles and to function at the highest level of performance. All Directors shall serve the Foundation in their individual capacities and not as representatives of any unit or authority which appointed them.

Section 4.4 Duties & Powers. The Board of Directors shall have the control and management of the affairs of the Foundation and shall exercise all such powers of the Foundation, and do all such lawful acts and things necessary to expedite the control and management thereof. The Board of Directors may adopt such rules and regulations for the conduct of their meetings and management of the Foundation as they deem proper and appropriate subject to, and consistent with, the laws of the State of Arkansas.

Section 4.5 Vacancies. When a vacancy in the directorship shall occur for any reason, the Executive Director shall inform the Board of Directors. The Directors shall then nominate and elect a replacement Director. A Director appointed to fill a vacancy in a position with an unexpired term shall be appointed or elected for the unexpired term of the Director's predecessor in office.

Section 4.9 Removal. The Board of Directors, plus confirming authority, may remove any Director from his office in the Foundation upon recommendation of a majority vote of the Directors if the action is necessary in the best interest of the Foundation. If a Director is absent unexcused for three consecutive regular meetings the directorship shall be considered vacant.

Section 4.10 Resignation of Directors. Any Director may resign at any time by communicating in writing his/her resignation to the Board, the Chairman, or the Executive Director. A resignation is effective when communicated unless the manner of communication specifies a later effective date or subsequent event upon which it will become effective.

ARTICLE V
OFFICERS, EXECUTIVE DIRECTOR, AND FINANCIAL OFFICER
(Amended December 7, 2011)

Section 5.1 Officers. The Board of Directors, by majority vote, shall elect officers for the Foundation including:

- (a) Chairman of the Board. The Chairman of the Board of the Foundation shall preside at all meetings of the Foundation and shall perform duties commonly incident to this office and shall perform such additional duties as may from time to time be assigned by the Directors of the Foundation. The Chairman of the Board shall provide leadership for the Foundation.
- (b) Vice-Chairman of the Board. The Vice-Chairman shall preside over meetings in the absence of the Chairman of the Board and shall carry out such additional duties as may from time to time be assigned by the Chairman of the Board or the Directors of the Foundation.

Section 5.2 Executive Director. The Executive Director shall be the principal executive officer of the Foundation, and shall in general supervise and control all of the business and affairs of the Foundation. This director may sign, together with one of any other proper officer of the Foundation, any deeds, mortgages, bonds, contracts, or other instruments which the Executive Committee has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Executive Committee or by these By-laws to some other officer or agent of the Foundation. The Executive Director shall in general perform all duties as may be prescribed from time to time by the Board of Directors or the Executive Committee. The Executive Director is a non-voting member of the Board of Directors and shall not be part of the quorum necessary for any voting.

Section 5.3 Financial Officer/Secretary to the Board. The Financial Officer shall be named (employed) by the Directors of the Foundation and shall not be a voting Director of the Foundation. This officer shall also serve as the Secretary to the Board for the taking of the official Foundation minutes. As Financial Officer, this officer shall keep the accounting debt and credit records (books showing the Financial transactions of the Foundation and be responsible for preparing all financial records for the annual audit and tax reports. The Financial Officer shall make all deposits and disbursements to the various financial institutions as authorized by the Directors. The officer shall prepare disbursement checks and other instruments for disbursements as required by law and will receive appropriate compensations for services rendered as determined by the Board of Directors. This officer may be required to give bond in such amounts and on such conditions as the Board of Directors may determine and the Foundation thereof will pay the expenses. (Amended April 23, 1998)

Section 5.4 Additional Officers. The Board of Directors may appoint such other officers, as it in its discretion may require, serving on such terms and conditions as the Directors deem to be in the best interest of the Foundation.

Section 5.5 Compensation. The Directors shall not, by reason of service as a Director, or reason of office, be entitled to receive any salary or compensation from the Foundation except when approved

by the Board of Directors. The Executive Director and Financial Officer may receive compensation for services rendered in accordance with provisions made by the Board of Directors of the Foundation.

Section 5.6 Officer Terms. The term of office for each officer of the Foundation shall be two years, except for the office of Executive Director and Financial Officer to the Board. These officers shall serve at the discretion of the Directors of the Foundation working together in consultation with the President of Henderson State University, and are subject to selection or employment, by the Board of Directors at its discretion. Officers shall be able to succeed themselves. Officers will be elected in June of even years.

Section 5.7 Miscellaneous. At no time during the existence of this Foundation shall an ex-officio member of the Board of Directors serve as the Chairman of the Board or Vice-Chairman of the Board. At no time during the existences of this Foundation shall a Director who is also serving in the capacity as a Trustee of the University or as a member of any other Board associated with the University serve as an officer of the Foundation. Likewise, at no time during the existence of this Foundation shall an ex-officio member of the Board of Directors serve as an officer of the Foundation.

Article VI

Meetings of Board of Directors

Section 6.1 Meetings. The Board of Directors shall meet four (4) times a year on dates agreeable to the Board. The meetings shall be scheduled in the Summer, Fall, Winter, and Spring. Written or electronic mail notice of each meeting shall be provided to each Director by the Executive Director or Secretary to the Board at least ten (10) days in advance thereof. Special meetings may be called on similar notice of five (5) days at the request of the Chairman of the Board, or any four (4) Directors, the Executive Director or any one of the officers. Members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can simultaneously hear each other, and participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

Section 6.2 Parliamentary Rule. Except as otherwise provided, the parliamentary law and procedures for meetings shall conform to that described in Robert's Rules of Order.

Section 6.3 Quorum. A quorum of the Board of Directors shall consist of a majority of the Board of Directors.

Section 6.4 Voting. Foundation actions shall be decided by a majority vote of the Directors present, in person or by phone, each having one vote. Proxy votes shall not be counted.

Section 6.5 Majority Defined. Any time the term “majority” is used it will refer to a simple majority of the number of Directors qualified, appointed, and presently serving.

Section 6.6 Conflict of Interest. If a quorum is present when a vote is taken, the affirmative vote of a majority of the directors present, in person or by phone is the act of the Board of Directors. Upon disclosure of the material facts of the transaction and the Director’s interest therein, a Conflict of Interest Transaction may be authorized, approved or ratified if it receives the affirmative vote of a majority of the Directors then in office who have no direct or indirect interest in the transaction. A “Conflict of Interest Transaction” is a transaction with the Foundation in which a Director has a direct or indirect interest. For purposes of this section it is a Director who has an indirect interest in a transaction: (1) if the Director has a material interest in an entity that has a direct interest; or (2) the Director is a general partner in a partnership, a manager of a limited liability company, or a director, officer or trustee of another entity that has a direct interest. The Board may impose additional requirements on Conflict of Interest Transactions by a resolution adopting a Conflict of Interest Policy.

Section 6.7 Indemnification of Directors & Officers. To the full extent permitted by the laws governing the State of Arkansas, the Foundation shall indemnify any person who was or is a party or is threatened to be made a party to any civil, criminal, administrative or investigative action, suit, or proceeding (whether brought by or in the right of the Foundation or otherwise) by reason of the fact that he or she is or was a Director or officer of the Foundation or is or was serving at the request of the Foundation as a Director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding; and the Board of Directors may, at any time, approve indemnification of any other person which the Foundation has the power to indemnify under the laws of the State of Arkansas. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which a person may be entitled as a matter of law or by contract. The Foundation may purchase and maintain indemnification insurance for any person to the extent provided by applicable law.

ARTICLE VII COMMITTEES

Section 7.1 Establishment. The Board of Directors shall establish such committees, including standing committees and temporary committees, as it deems necessary to affect its work.

Section 7.2 Executive Committee.

Responsibilities. The committee shall have general responsibilities to exercise the power and authority of the Board between meetings of the Board, such actions to be reported and discussed at the next meeting of the Board. The committee shall have specific duties of general Foundation asset management, budget review and development of policies, procedures and programs to foster the Foundation growth.

Membership. The Executive Committee is comprised of the officers of the Board of Directors and the Executive Director.

Meetings. Meetings of the committee shall be held on the call of the Chair of the committee or of the Chair or Executive Director of the Foundation.

Section 7.3 Nominations & Bylaws Committee.

Responsibilities. The committee shall assist in the nomination, recruitment and orientation of new Directors and Officers. This committee shall also review the Foundation's bylaws annually and present recommended revisions as necessary

Membership. The committee shall consist of four (4) or more members and a chair, all of whom shall be appointed by the Chair of the Foundation at the last meeting of the fiscal year.

Meetings. Meetings of the committee shall be held on the call of the Chair of the committee or of the Chair or Executive Director of the Foundation.

Section 7.4 Finance & Investment Committee.

Responsibilities. The Finance and Investment Committee shall have the duty to define a policy under which investment decisions may be made on behalf of the Foundation, shall seek and consider professional investment advice, and so act as to protect Foundation assets consistent with the fiduciary obligation of the Directors, and with a view to production of income and capital growth.

Membership. The committee shall consist of four (4) or more members and a chair, all of whom shall be appointed by the Chair of the Foundation at the last meeting of the fiscal year.

Meetings. Meetings of the committee shall be held on the call of the Chair of the committee or of the Chair or Executive Director of the Foundation.

Section 7.5 Audit Committee.

Responsibilities. The committee must receive and take such action as may be necessary and take steps to correct any audit findings or exceptions. The Henderson State University Board of Trustees will receive an annual audit.

Membership. The committee shall consist of two (2) or more members and a chair, all of whom shall be appointed by the Chair of the Foundation at the last meeting of the fiscal year.

Meetings. Meetings of the committee shall be held on the call of the Chair of the committee or of the Chair or Executive Director of the Foundation.

ARTICLE VIII FINANCIAL PROVISIONS

Section 8.1 General. All property and monies received by gift, devise, or bequest accepted by the Foundation shall constitute the funds of the Foundation. No part of the same or income of the capital appreciation therefrom, except for administrative expenses, shall be expended except for the purposes outlined in the By-laws.

Section 8.2 Restricted Funds. In the investment, control, or expenditure of any funds or property, including the income and capital appreciation therefrom, received by the Foundation for a special purpose and accepted by the Foundation with restrictions thereon, the Directors shall follow the directions or instructions of the donor of such funds or property as a trustee obligation.

Section 8.3 Designation of Funds. The Board of Directors shall have the authority and power to designate various categories of funds for use consistent with the purposes of the Foundation. The Board of Directors may, upon its own motion, designate categories of funds with restrictions and conditions on the expenditure thereof, and such categories may be in addition to those funds received with restrictions imposed by the respective donors.

Section 8.4 Deposit of Funds. The funds of the Foundation shall be deposited in financial institutions designated by the Directors and shall be disbursed by the Financial Officer and Executive Director with counter-signature of the Financial Officer of the Foundation. All funds and properties belonging to the Foundation shall be controlled by the Foundation. The Board of Directors shall exercise total control of the Foundation's funds.

Section 8.5 Audit. There shall be an annual audit of the books of the Foundation and of the funds and securities of the Foundation.

Section 8.6 Contracts. The Board of Directors, or the Executive Committee acting for the Board, may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confirmed to specific instances. Annually, the Board will authorize those with authority to enter into contracts on its behalf.

Section 8.7 Loans. No loans shall be contracted on behalf of the Foundation and no evidences of indebtedness shall be issued in its name, unless and except as authorized by the Board acting in accordance with these By-laws. Any officer or agent of the Foundation so authorized may make, execute, and deliver promissory notes, bonds, or other evidences of indebtedness, and liabilities of the Foundation any real property and all stocks, bonds, other securities, and other personal property at any time held by the Foundation, and to that end, may endorse, assign, and deliver the same, and do every act and thing necessary or proper in connection therewith. Such authority may be general or confined to specific instances. The Foundation shall make no loans to its Directors or officers.

Section 8.8 Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Foundation, shall be signed by such officer or officers, agent or agents of the Foundation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 8.9 Gift Annuities. The Foundation is authorized: (1) to execute contract for gift annuities under which the general Foundation are obligated for the payment of life or term annuities in exchange for the contribution of property to the Foundation; (2) to establish such reserves as may be required by state regulatory agencies as a condition of offering gift annuities; and (3) to execute such documents and to take such other actions as may be required to become qualified to enter into gift annuity contracts in any state or states.

ARTICLE IX AMENDMENTS

Section 9.1 Amendments of Bylaws. The Bylaws of the Foundation may be amended, altered or repealed and new By-Laws may be adopted by the Board of Directors at any regular or special meeting of the Board of Directors; provided, the Foundation shall provide (3) three days written notice to the Directors that the amendment will be voted upon at the meeting, and the notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment of the By-Laws, and the notice shall also contain or be accompanied by a copy or a summary of the amendment or state the general nature of the amendment. The Bylaws of the Foundation may be amended by a vote of the majority of the Directors of the Foundation at any Regular or Special meeting of the Foundation.

Section 9.2 Amendments of Articles. The Articles of Incorporation of the Foundation may be amended or altered at any meeting of the Board of Directors by an affirmative vote of a majority of the Directors.

**ARTICLE X
MISCELLANEOUS**

Section 10. 1. Fiscal Year. The affairs and audit of the Foundation shall be conducted on the basis of a fiscal year beginning July 1 through June 30.

Section 10.2 Copy of the Bylaws. The Secretary to the Board of the Foundation shall at all time keep in the office of the Foundation a true and correct copy of the By-Laws.

I, _____, Chairman of the Foundation Board or Directors, do hereby certify these Bylaws of the Henderson State University Foundation.

Signature

Date