

**BYLAWS
of
GAVILAN COLLEGE EDUCATIONAL FOUNDATION**

(A 501(c)(3) Non-Profit Corporation)
Amended and Restated 2020

**ARTICLE I
NAME**

Section 1: Name The full name of this Corporation is and shall be the GAVILAN COLLEGE EDUCATIONAL FOUNDATION, hereinafter referred to as the "Corporation" or "Foundation".

**ARTICLE II
OFFICES**

Section 2.01: Principal Office The Corporation's principal office shall be located within the boundaries of Gavilan Joint Community College District.

Section 2.02: Mailing Address The mailing address of the Foundation, for the transaction of business, is 5055 Santa Teresa Blvd, Gilroy, California 95020

**ARTICLE III
MISSION, PURPOSE AND FUNCTIONS**

Section 3.01: Mission The Foundation is the official auxiliary organization of Gavilan College. It serves to advocate for the college, and seeks additional financial resources for college services to meet the needs of its students.

Section 3.02: Purpose The specific purposes for which the Corporation is formed are to:

- a. Provide financial assistance to college programs and other related activities by supporting district research, educational projects, and capital development;
- b. Provide a means for the community to invest in Gavilan College through donations, planned giving, and special events;
- c. Foster good will and promote interaction between the community and Gavilan College staff and students;
- d. Provide and administer scholarships and financial aid assistance to deserving Gavilan College students;

- e. Develop individual business ventures and projects to obtain funds to support Gavilan College programs and related activities;
- f. Seek and facilitate grants, when appropriate, between Gavilan College and state and federal governments, business, industry, and private foundations; and
- g. All other functions which implement the purpose of providing activities which are an integral part of the community college educational programs or as otherwise authorized by title 5 CCR Section 59250 et seq.

ARTICLE IV MEMBERSHIP

Section 4.01: Members The Corporation shall have no members. Any action which would otherwise require approval by the members shall require only the approval of the Board. All rights which would otherwise vest in the members shall vest in the Board.

Section 4.02: Associates Nothing in this Article IV shall be construed as limiting the right of the Corporation 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 Public Benefit Corporation Law. The Board may, by resolution, establish categories of persons associated with the Corporation and set the qualifications therefore. Persons meeting the qualifications of such categories may be referred to as "Regular Members", "Sustaining Members", "Patrons" or such other title approved by the Board, but no such designation shall confer upon any person the right to vote for the election of Directors, or on a disposition of substantially all the assets of the Corporation, or on a merger, or on a dissolution, or on changes to the Corporations Articles or Bylaws, nor shall any such designation confer upon any person the status of a member within the meaning of Corporations Code Section 5056.

ARTICLE V BOARD of DIRECTORS

Section 5.01: Number. Selection. Term of Office The Foundation Board of Directors shall not exceed twenty (20) elected members. The number of Directors may be changed from time to time, by an amendment to these Bylaws duly adopted by approval of Board of Directors. Each of these members shall be elected by the Board for a term not exceeding three years. Terms of the office expire at the June annual meeting. Directors may be re-elected for a subsequent term. A director may be re-elected to the board for additional terms, pending board approval.

The Board shall be comprised of up to three (3) permanent employees from Gavilan College, including the College President, who will be permanently assigned as an Ex Officio Director on the Board. The college representation is not to exceed 50% of total membership, and shall also include: (1) One College Trustee selected by the District Board of Trustees, and (1) One Member of the student body of the College, to be appointed by the College President. The Directors who are representatives of Gavilan College shall hold office for three years, unless and until they cease to be associated with and/or employed by the college. There is no limit on the number of consecutive three-year terms a Director which is a representative of the Gavilan College may serve.

The Foundation shall maintain appropriate records concerning the membership of the Board of Directors, including the terms of each office, and the names, addresses, telephone numbers and other relevant data concerning each director.

Section 5.02: Qualifications The Directors of the Foundation must be interested in Gavilan College and be willing to contribute time and talent to the administration of the Foundation. Directors shall fulfill their obligations and duties as set forth in the volunteer job description and shall serve without compensation.

Section 5.03: Powers and Duties The corporate powers, business, and affairs of the Corporation shall be exercised, conducted, and controlled by the Board of Directors. The Board shall be empowered to hire, engage, retain or contract for services of such representatives, counselors, and other staff members as are deemed necessary to the furthering of the purposes of the Corporation. Subject to the limitations of the Articles of Incorporation and these Bylaws, the activities and affairs of the Corporation shall be conducted and all Corporate Powers shall be exercised by or under the direction of the Board, subject to the terms and conditions of the Operating Agreement Between the Gavilan Joint Community College District Board of Trustees And The Gavilan College Educational Foundation ("Operating Agreement").

The Board may delegate the management of the activities of the Corporation to any person or persons, ad hoc committee, or committees however composed, provided that the activities and affairs of the Corporation shall be managed and all Corporate Powers shall be exercised under the ultimate direction of the Board, subject to the terms and conditions of the Operating Agreement.

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 and Duties in addition to the other powers enumerated in these Bylaws:

- a. To select and remove all officers, agents, and employees of the Corporation, prescribe powers and duties for them as may not be

inconsistent with the law, the Articles of Incorporation, or these Bylaws, fix their compensation, and require from them security for satisfactory service;

- b. To conduct, manage, and control the affairs of the Corporation and to make such rules and regulations therefore which are not inconsistent with the law, the Articles of Incorporation, or these Bylaws, as they deem appropriate;
- c. To adopt, make, and use a Corporate Seal and to alter the form of such seal from time to time as they deem appropriate;
- d. Subject to the approval of the College District Governing Board, to borrow money and incur indebtedness for the purposes of the Corporation, and to cause to be delivered in the Corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, or other evidences of debt and security therefore;
- e. To accurately register their names, addresses and telephone, fax or email numbers with the Secretary of the Corporation. Notices of meetings mailed or conveyed to the addresses or phone, fax or email numbers of each Director shall be considered valid notices thereof;
- f. To meet at such times and places as are required by these Bylaws.
- g. Such other powers as are reasonably implied from the Articles, these Bylaws, and the Operating Agreement and District Regulations.

Section 5.04: Vacancies All vacancies on the Board of Directors as a result of term expiration, resignation, or termination of office will be filled by the action of the President of the Foundation Board, in consultation with the majority of the Directors then in office, and the concurrence of the College President. No Reduction of the authorized number of Directors shall have the effect of removing any Director before that Director's term of office expires. Any person selected to fill a vacancy on the Board of Directors shall hold office for the remainder of the vacated term.

Section 5.05: Conflicts of Interest No more than forty nine percent (49%) of the persons serving as Directors may be "interested persons" as defined by Corporations Code Section 5227. For the purposes of this prohibition an "interested person" is any person compensated by the corporation for services rendered within the preceding twelve months, excluding any compensation paid to a Director as Director; and any brother, sister, ancestor, dependent, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law of such person; provided that violation of this prohibition shall not affect the validity of transactions entered into by the Corporation. The following additional rules shall apply to Directors regarding financial interests which place them in conflict with their obligations as Directors:

- a. Financial Interests Prohibited; Exception. Pursuant to Education Code Section 72677, no Director shall be financially interested in any contract or other transaction entered into by the Board. Any contract or transaction entered into in violation of this provision is void. Provided, however, no such contract or transaction shall be void, and no financially interested Director shall be disqualified or deemed guilty of misconduct in office, if the following conditions are met: (a) the fact of such financial interest is disclosed, or already known, and noted in the minutes, and the Board thereafter authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote of the financially interested Director; and (b) the contract or transaction is just and reasonable as to the corporation at the time it was approved or authorized.

- b. Facts Eliminating Exception. The exception provided by Section 5.05(a) shall not apply where any of the following conditions exist: (1) the contract or transaction is between the corporation and a Director; (2) the contract or transaction is between the corporation and a partnership or unincorporated association in which the Director holds a proprietary interest; (3) the contract or transaction is between the corporation and a corporation in which the Director is the owner or holder, directly or indirectly, of five percent (5%) or more of the outstanding common stock; or (4) the Director holds a financial interest in the transaction or contract before the Board, and without first disclosing her/his interest therein, influences or attempts to influence another member or members of the Board to enter into the contract or transaction.

- c. Use of Information for Pecuniary Gain. No current or former Director shall use any information not already a matter of public record which is received by him/her by reason of their position as a Director, for personal pecuniary gain, regardless of whether he or she is not a Director at the time the gain is realized.

Section 5.06: Non-Liability of Directors Except as otherwise required by law, no cause of action by the Corporation shall arise against any person serving without compensation as a director or officer of the corporation on account of any negligent act or omission occurring (1) within the scope of the person's duties as a board member, or within the scope of that person's duties as an officer acting in official capacity; (2) in good faith; and (3) in a manner that the person believes to be in the best interest of the corporation. The Corporation shall always maintain, or arrange through the District for, an insurance policy of such type and amount as may be required at that time by Section 5047.5 of the California Nonprofit Public Benefit Corporation Law, or any successor provision.

Section 5.07: Open Meeting Law Applicable OPEN MEETINGS. All meetings of the Board and of standing committees of the Board will be open to the public. Agendas will be published in advance and public participation at the meeting site will be encouraged. Members of the Board who, due to extenuating circumstances, are unable

to attend in person will be able to fully participate via telephone. Votes will be conducted by roll-call when voting members are participating by telephone. Board members are strongly encouraged to attend meetings in person such that a quorum is present at the meeting site. Except as explicitly required by this Section 5.07 the open meeting, agenda, physical presence and closed session provisions of the Brown Act, Government Code section 54950 et seq., shall not apply to meetings of the Foundation Board.

Section 5.08: Annual Meeting The Board shall hold an Annual Meeting for the purpose of organization, election of Directors and Officers, and the transaction of other business. The Annual Meeting of the Board shall be scheduled and agendized as a Regular Meeting, and held on a date selected by resolution of the Board or the Executive Committee not more than ninety (90) days after the end of the fiscal year.

Section 5.09: Regular Meetings The Board shall hold regular public meetings, held at any place within or without the State of California which has been designated from time to time by resolution of the Board or by written consent of a majority of the members of the Board, or by the Executive Committee. In the absence of such designation, meetings shall be held at the principal office of the Corporation.

Section 5.10: Special Meetings A Special Board meeting shall be called by the President and held at any place so designated as a Regular Meeting. No business at a Special Meeting may be transacted other than that specified in the agenda for such meeting.

Section 5.11: Quorum A majority of the authorized Directors shall constitute a quorum of the Board for the transaction of business, except to adjourn as provided in Section 5.13below. Every act or decision done or made by a majority of the directors present or on the phone at a meeting duly held at which a quorum is present shall be regarded as the act of the full Board, unless a greater number is required by law or by the Articles of Incorporation, except that any meeting in which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, as long as any action taken is approved by at least a majority of the required quorum for such a meeting. Provided, however, to the extent any provisions of this Section 5.11 are (or become) inconsistent with Government Code §§54940 et seq., the statute shall control.

Section 5.12: Waiver of Notice Written Notice of a meeting need not be given to any Board of Director who 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 who attends the meeting without protesting, either prior thereto or at its commencement, the lack of notice to such Board of Director. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 5.13: Adjournment A majority of the Board of Directors present, whether or not a quorum is present, may adjourn any Board of Director's meeting to another time and place. Notice of any adjournment shall be given to the Directors who were not present at the time of the adjournment, and any future continuation of meeting shall comply with the Brown Act.

Section 5.14: Rights of Inspection Every Board of Director shall have the absolute right at any reasonable time to inspect all books, records, documents of every kind and any personal property of the Corporation and to inspect the physical properties of the Corporation.

Section 5.15: Honorary and Emeritus Directors The Board of Director's may from time to time elect persons to be designated as "Honorary Directors" or "Emeritus Directors" in recognition of outstanding service to the Corporation. Persons so elected shall hold such honorary offices at the pleasure of the Board and during such time they shall have the right to attend meetings of the Board, but they shall not be deemed to be members of the Board for any purpose set forth in these Bylaws and shall have no voting rights.

Section 5.16: Contact Information Directors shall file with the Secretary a mailing address, email address, two (2) contact phone numbers (one being a cell number), among other information. All written notices will be directed to the mailing address. All contact information will be kept current by each Board of Director.

Section 5.17: Removal of Directors The Board of Directors may remove and declare vacant the office of any Director, at the Board's discretion, with or without cause. The Board shall act to remove a Director on the occurrence of any of the following events.

- a. Unsound mind The Director has been declared to be of unsound mind by the final order or judgment of a court of competent jurisdiction;
- b. Breach of Statutory Duties The Director has been found by a final order or judgment of a court of competent jurisdiction to have breached any duties imposed by Section 7238 of the Corporation Code of the State of California upon directors who perform functions with respect to assets held in charitable trust; or
- c. Non-Participation The Director, in any twelve (12) month period, has failed to attend at least one (1) board meeting.

Section 5.18: Resignation of Board of Director Any Director may resign their position, effective upon giving written notice thereof to the President of the Board of Directors, or upon acceptance thereof by the full Board of Directors, unless the notice specifies a later time of the effectiveness of such resignation is effective at a future time, a successor may be elected to take office when such resignation becomes effective.

ARTICLE VI OFFICERS

Section 6.01: Officers The officers of the Corporation shall be a President; a Vice President; additional Vice Presidents as determined by the Board; a Secretary; and a Treasurer. Any number of offices may be held by the same person except that neither the

Secretary nor the Treasurer may serve concurrently as the President. All of said officers shall be members of the Board.

Section 6.02: Election The officers of the corporation shall be elected by the Board of Directors. Election shall be by a majority vote of a quorum present at the annual meeting. Each officer shall hold office for a period of three years or for the remainder of their non-expired term. All officers shall be selected from the elected members of the Board of Directors.

Section 6.03: Subordinate Officers The Board of Directors or the President, may elect, and may appoint, such other officers as the business of the Corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board may from time to time determine. The appointees shall be members of the Board of Directors for the period specified for the appointed position.

Section 6.04: Removal of Officers Any officer may be removed, either with or without cause, by the Board at any time or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board. 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 Corporation, but without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified herein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.05: Vacancies 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 regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

Section 6.06: President The President shall preside over all meetings of the Board and shall perform such other duties as may be assigned in these Bylaws or by action of the Board. The President shall Chair the Executive Committee and shall be a member of all standing committees.

Section 6.07: Vice President Any Vice President may perform the duties of the President at a time when the President is unable to perform those duties. Any Vice President shall have such other powers and perform such other duties as from time to time may be prescribed for the Vice President by the Board or by these Bylaws.

Section 6.08: Secretary The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board may order, a book of minutes of all meetings of the Board and its committees, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board and committee meetings, and the proceedings thereof.

The Secretary shall keep or cause to be kept, at the principal office in the State of California the original or a copy of the Corporation's Articles of Incorporation and Bylaws, as amended to date.

The Secretary shall give, or cause to be given, notice of all meetings of the Board and any committees thereof required by these Bylaws or by law to be given, shall keep the seal of the Corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board.

The Secretary may fulfill his or her duties hereunder by delegating the same to subordinate officers, staff of the Corporation or in consultation with the District Vice President of Administrative Services, but shall take appropriate steps to ascertain the performance of such delegated duties.

Section 6.09: Treasurer The Treasurer shall be responsible for and oversee all financial administration of the Corporation.

Section 6.10: Executive Director The Executive Director shall be employed by the District, and shall report directly to and take direction from the College President. The Executive Director shall have those powers, duties, authorities and responsibilities which have been set forth in such Executive Director job description as has been adopted by the District Governing Board, and/or as may otherwise be directed by the College President. The Executive Director shall also be responsible for the management and /or supervision of such other office and/or administrative employees or other personnel as many, from time to time, work for, be under contact with, or under control of the Foundation.

Section 6.11: Past President The immediate Past President of the Board of Directors shall serve on the Executive Committee, and if approved by the Board shall chair or designate another Director to chair the Nomination, the Development and the Past President's Club Committees. The immediate Past President shall be a voting member of the Board and shall also have such other powers and perform such other duties as from time to time may be prescribed by the Board of Directors or by these Bylaws.

ARTICLE VII COMMITTEES OF THE BOARD OF DIRECTORS

Section 7.01: Standing Committees The Board shall have the following five standing committees:

- a. Executive
- b. Finance and Investment
- c. Nominations
- d. Capital Development
- e. Advisory

Unless otherwise specified, all committee members will serve a term of one year, but may

be reappointed. Unless otherwise specified, committee members will be nominated by the Executive Director, and appointed from among those so nominated by the Board of Directors.

Section 7.02: Executive Committee The Executive Committee shall include the Board President, the College President, the Immediate Past President, the Vice President, the Secretary, the Treasurer and the Executive Director. The Board President shall serve as Chair of the Executive Committee.

Subject to such limitations as may be imposed by the Board, the Executive Committee shall be possessed of all of the powers of the Board, except those which the California Nonprofit Public Benefit Corporation Law, or other applicable law, specifically reserves to the full Board.

The Powers specifically reserved by law to the full Board are:

- a. The filling of vacancies on the Board or on any committee;
- b. The amendment or repeal of these Bylaws or the adoption of new Bylaws;
- c. The amendment or repeal of any resolution of the Board which by its express terms calls for full Board action;
- d. The appointment of other committees of the Board or the members thereof; and
- e. The approval of any self-dealing transaction, except as specifically provided by Section 5233 (a) of the California Nonprofit Public Benefit Corporation Law.

The Executive Committee shall address such internal affairs of the Foundation which may require action, decision or recommendation, between the regularly scheduled meetings of the full board. In such cases, the Executive Committee shall be vested with all the powers of the Board of Directors and as provided by law.

Section 7.03: Finance and Investment Committee The Finance and Investment Committee shall consist of the Treasurer, Executive Director, the District Vice President of Administrative Services or their designee, and any other board member appointed by the President. The Committee's responsibility shall be to review the financial statements and to advise the Executive Committee or the Board on investment, expenditure, or acquisition of funds.

Section 7.04: Nomination Committee The Nomination Committee shall consist of the Executive Director, Past immediate President, and any other board member appointed by the President. The committee shall present a report nominating new board members and present board members who are running for reelection, and nominees for new officers.

Section 7.05: Capital Development Committee The committee shall consist of one Gavilan College Representative, the Executive Director, the College President and any other board member appointed by the President. The committee shall recommend to the Board new initiatives and projects to benefit the college and its students in line with the purposes in Section 3.02.

Section 7.06: Advisory Committee The Foundation may establish and maintain an Advisory Committee which shall be composed of members of the general public, business, industry and others interested in furthering the purpose, objectives and interest of the Foundation. An authorized statement of their qualifications, roles, duties and limitations of authority shall be adopted by the Board of Directors and maintained in the official records of the Foundation, which statement shall expressly provide that: (1) they shall not be members of the Foundation; (2) they shall not be entitled to vote in fiscal matters, matters of policy, or any corporate matters; (3) they shall not be entitled to, in any manner and either directly or indirectly, obligate the Foundation; and (4) they shall not be permitted to handle any corporate funds or liquid assets;

Section 7.07: Fees and Compensation Directors and members of committees shall receive no compensation for their services, but may be reimbursed for actual expenses in accordance with policies established by the Board. The Corporation shall make no loan of money or property to any Director without the approval of the California Attorney General and the College District Governing Board.

ARTICLE VIII PARLIMENTARY AUTHORITY

Section 8.01: The rules contained in Robert's Rules of Order, Newly Revised shall govern the procedure and organization in all cases to which they are applicable and in which they are not inconsistent with these Bylaws.

ARTICLE IX FINANCIAL MATTERS

Section 9.01: The Foundation shall follow the same accounting policies and procedures as those maintained by the District's Business Services Office.

Section 9.02: All Checks, drafts or orders for payment of money, notes or other evidence of indebtedness issued in the name of Gavilan College Educational Foundation shall be signed by the President or Treasurer of the Foundation, and by the College President or Vice President of Administrative Services. Any person who signs the check may not be the payee of the check.

Section 9.03: A purchase order system shall be utilized. Purchase orders are to be made out by the District Business Office for the Foundation. For designated accounts of Gavilan College Departments there shall be written approval by the person designated responsible for that account, and then a purchase order approved by the District Vice President of Administrative Services or their designee will be processed for the Foundation.

Section 9.04: All funds of the Foundation shall be deposited in such banks, trust companies or other depositories as the Board of Directors may select as subject to applicable law or policy.

Section 9.05: The Board of Directors may accept, on behalf of the Foundation, any contribution, gift, or bequest, for the general or special purposes of the Foundation.

Section 9.06: The annual independent audit of the affairs of the Foundation shall be prepared by the same qualified Certified Public Accountant that prepares the audits for the District. The CPA shall furnish a report to the directors hereof and shall prepare with the assistance of the District Business Services Office the federal and state tax returns for filing by the Foundation.

Section 9.07: The Foundation shall have the power to invest and reinvest assets and property of whatsoever kind entrusted to it or any portion thereof in such securities or other property as the Directors may deem advisable, at the discretion of the Board of Directors.

Section 9.08: The fiscal year of the Foundation will begin on the first day of July and end on the last day of June in each year.

Section 9.09: Once the Board of Directors adopts a budget, the Executive Director is authorized to expend funds within budgeted accounts.

Section 9.10: The Board of Directors of the Foundation is protected by and has all the rights and privileges under the liability and property insurance policy of the college.

ARTICLE X MISCELLANEOUS

Section 10.01: Maintenance of Corporate Records The Corporation shall keep at the District Business Services Office:

- a. copies of minutes of all meetings of the Board and committees of the Board, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;

- b. adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses;
- c. a copy of the Corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the members, if any, of the Corporation at all reasonable times during office hours.
- d. a copy of the Operating Agreement Between the Gavilan College Board of Trustees and The Gavilan College Educational Foundation and its attachments.
- e. copies of all donor records specified in Section 10.11.

Section 10.02: Corporate Seal The Board may adopt, use, and at will alter, a corporate seal. Such seal shall be kept at the principal office of the Corporation. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.

Section 10.03: Annual Report The Board shall cause an annual report to be furnished not later than one hundred and eighty (180) days after the close of the Corporation's fiscal year to all Directors of the Corporation, which report shall contain the following information in appropriate detail:

- a. the assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year;
- b. the principal changes in assets and liabilities, including trust funds, during the fiscal year;
- c. the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year; and
- d. the expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year.

Section 10.04: Annual Statement of Specific Transactions and Indemnifications

This Corporation shall mail or deliver to all Directors a statement within one hundred and eighty (180) days after the close of its fiscal year which briefly describes the amount and circumstances of any indemnification or any transaction in which the Corporation, or its parent or its subsidiary, was a party, and in which there was a direct or indirect material financial interest on the part of any Director or officer of the Corporation, or its parent or subsidiary. A mere common Directorship shall not be considered a material financial interest.

Section 10.5: Execution of Instruments The Board, except as otherwise provided in these Bylaws, may by resolution authorize any officer or agent of the Corporation to enter

into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

Section 10.06: Representation of Shares of Other Corporations The President or any other officer or officers authorized by the Board or the President are each authorized to vote, represent and exercise on behalf of the Corporation all rights incidental to any and all shares of any other corporation or corporations standing in the name of the Corporation. The authority herein granted may be exercised either by any such officer in person or by any other person authorized to do so by proxy or power of attorney duly executed by said officer.

Section 10.07: 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 shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular and the term “person” includes both a corporation and a natural person.

Section 10.08: Dissolution In the event of the dissolution of the Corporation, the Corporation’s debts and liabilities shall be paid or provided for and the remaining assets distributed to the Gavilan Joint Community College District or otherwise as directed by the California Attorney General. In no event shall any part of the net income or assets of this Corporation inure to the benefit of any Director or officer of the Corporation.

Section 10.09: Indemnification Definitions: For purpose of this article, Agent means any person who is or was a Director, officer, employee, or other agent of the corporation, or is or was serving at the request of the corporation as a Director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a Director, officer, employee, or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation. A proceeding means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative, or investigative; and expense includes without limitation attorneys’ fees and any expense of establishing a right to indemnification under this article. Subject to the other provisions of this section the Corporation shall defend and indemnify its Directors, including persons formerly occupying such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any proceeding.

Section 10.09.1: Indemnification in Actions by Third Parties The corporation shall have the power, but no obligation, to defend and to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other

than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 5233 of the California Nonprofit Public Benefit Corporation law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust), by reason of the fact that such person is or was an agent of the corporation, against expenses, judgment, fines, settlement, and other amount actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interest of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner that the person reasonably believed to be in the best interest of the corporation or that the person had reasonable cause to be believed that the person's conduct was unlawful.

Section 10.09.2. Indemnification in Actions by or in the Right of the Corporation Subject to the provisions hereof, and to section 4, and 5, and 8, the corporation shall have the power, but no obligation, to defend and indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of the corporation, or brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or brought by the Attorney General, or a person granted relator status by the Attorney general for breach of duty relating to assets held in charitable trust to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the interest of the corporation and with such a care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. Provided indemnification shall be made under these conditions:

- a. In respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- b. Of amounts paid in settling or otherwise disposing of a threatened or pending action described in subsection a., without such court determination; and
- c. Of expenses incurred in defending a threatened or pending action, which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

Section 10.09.3. Indemnification Against Expenses To the extent that an agent of the corporation has been successful on the merits in defense of any proceeding referred to in section 10.09.1 or 10.09.2 or in defense of any claim, issue, or matter therein, the corporation shall have the power, but not the obligation to indemnify the agent against expenses actually and reasonably incurred by the agent in connection therewith.

Section 10.09.4. Required Determination, Any indemnification under this Section 10.09 shall be made by the corporation only if authorized in the specific case, and only upon a determination, made by majority vote of the directors of the corporation, that the person requesting indemnification acted in good faith and in a manner such person reasonable believed to be in the best interest of the corporation and had no reasonable cause to believe their act or omission was unlawful or tortious.

Section 10.09.5: Advance of Expenses Expenses incurred in defending any proceeding may, but need not, be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to pay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this article.

Section 10.09.6: Insurance The Foundation shall have the power to purchase and maintain insurance on behalf of any agent of the Foundation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Foundation would have the power to indemnify the agent against such liability under the provisions of this article provided, however, that the Corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of Corporations Code section 5233. Notwithstanding any other provision herein, the Corporation shall maintain a policy of Directors and Officers Errors and Omissions Insurance applicable to acts and omissions of Directors and Officers within the scope of their duties.

Section 10.10: Donors not Members No person shall, by the giving of any funds, donation or contribution be afforded any rights or status of membership, unless that person is also a Board of Director.

Section 10.11: Donor Records The Executive Director with the assistance from the Treasurer of the Foundation shall maintain a record of donors and contributors, their names, addresses and amounts of contribution, for each fiscal year of the Foundation. The record shall be maintained with the books and records of the Foundation, and shall be available for inspection, to the extent provided by California law.

Section 10.12: Non-liability of Donors and Contributors A donor or contributor to the Foundation shall not, because of such donation or contribution, be personally liable for any debt, obligation, or liability of the Foundation.

**ARTICLE XI
AMENDMENTS**

Section 11.01: Amendments may be made to the Bylaws by a majority vote of the voting members present at a scheduled Foundation Board meeting, providing the amendments were submitted to all of the board members in writing at least two (2) weeks in advance of the meeting. Amendments will be in effect immediately.

(END OF BYLAWS)

CERTIFICATE OF BYLAW ADOPTION

I, the President of the Gavilan College Educational Foundation, a California nonprofit public benefit corporation, do hereby certify that the foregoing Bylaws, comprising seventeen pages, constitute the Bylaws of said Corporation as duly adopted by action of the Board of Directors.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Corporation this 8th day of July, 2020.

(seal)

DocuSigned by:
Tony Marandos
6052353BE82C481...

Gavilan College Educational Foundation
President