

## OPERATING AGREEMENT BETWEEN CALIFORNIA STATE UNIVERSITY AND CAL STATE EAST BAY EDUCATIONAL FOUNDATION

This agreement is made and entered into by and between the Trustees of the California State University by their duly qualified Chancellor (CSU) and Cal State East Bay Educational Foundation serving California State University, East Bay (CSUEB). The term of this agreement shall be 11/19/2017 through 11/18/27 unless sooner terminated as herein provided.

### 1. PURPOSE

The purpose of this agreement is to set forth the terms and conditions under which Auxiliary may operate as an auxiliary organization pursuant to California Education Code §89900 et seq. and California Code of Regulations (CCR) Title 5, § 42400 et seq. In entering this agreement, CSU finds that certain functions important to its mission are more effectively accomplished by the use of an auxiliary organization rather than by the Campus under the usual state procedures.

### 2. PRIMARY FUNCTION(S) OF THE AUXILIARY

In consideration of receiving recognition as an official CSU auxiliary organization, Auxiliary agrees, for the period covered by this agreement, that the primary function(s), which the Auxiliary is to manage, operate or administer is/are:

- Student Body Organization
- Student Union
- Housing
- Philanthropic
- Externally Funded Projects
- Real Property Acquisition / Real Property Development
- Commercial

In carrying out the above, the Auxiliary engages in the following functions authorized by, CCR tit.5, §42500, which are activities essential and integral to the educational mission of the University:

- Gifts, bequests, devises, endowments, trusts and similar funds
- Public relations, fundraising, fund management, and similar development programs
- Loans, Scholarships, Grants-in-Aids, Stipends, and Related Financial Assistance

Auxiliary agrees to receive and apply exclusively the funds and properties coming into its possession toward furthering these purposes for the benefit of CSU and the Campus. Auxiliary further agrees that it shall not perform any of the functions listed in CCR tit.5, §42500 unless the function has been specifically assigned in this operating agreement with the Campus. Prior to initiating any additional functions, Auxiliary understands and agrees that CSU and Auxiliary must amend this agreement in accordance with Section 21, *Amendment*.

### **3. CAMPUS OVERSIGHT AND OPERATIONAL REVIEW**

The responsibility and authority of the Campus president regarding auxiliary organizations is set forth in CCR tit.5, §42402, which requires that auxiliary organizations operate in conformity with CSU and Campus policies. The Campus President has been delegated authority by the CSU Board of Trustees (Standing Orders §VI) to carry out all necessary functions for the operation of the Campus. The operations and activities of Auxiliary under this agreement shall be integrated with Campus operations and policies and shall be overseen by the campus Chief Financial Officer (CFO) or designee so as to assure compliance with objectives stated in CCR tit.5, §42401.

The Campus shall review Auxiliary to ensure that the written operating agreement is current and that the activities of Auxiliary are in compliance with this agreement at least every five (5) years from the date the operating agreement is executed and at least every five years thereafter. Confirmation that this review has been conducted will consist of either an updated operating agreement, or a letter from the Campus CFO or designee to the Campus President with a copy to the Chancellor's Office, certifying that the review has been conducted. As part of these periodic reviews, the Campus President should examine the need for each auxiliary and look at the efficiency of the auxiliary operation and administration.

Auxiliary agrees to assist the Campus CFO or designee in carrying out the compliance and operational reviews required by applicable CSU Executive Orders and related policies.

### **4. OPERATIONAL COMPLIANCE**

Auxiliary agrees to maintain and operate its organization in accordance with all applicable laws, regulations and CSU and Campus rules, regulations and policies. Failure of Auxiliary to comply with any term of this agreement may result in the removal, suspension or probation of Auxiliary

as an auxiliary organization in good standing. Such action by CSU may result in the limitation or removal of Auxiliary's right to utilize the CSU or campus name, resources and facilities (CCR tit.5, §42406).

## **5. CONFLICT OF INTEREST**

No officer or employee of the CSU shall be appointed or employed by Auxiliary if such appointment or employment would be incompatible, inconsistent or in conflict with his or her duties as a CSU officer or employee.

Auxiliary has established and will maintain a conflict of interest policy. The Auxiliary's Conflict of Interest Policy is attached as **Attachment 1**.

## **6. EXPENDITURES AUGMENTING CSU APPROPRIATIONS**

With respect to expenditures for public relations or other purposes which would serve to augment appropriations for CSU operations, Auxiliary may expend funds in such amount and for such purposes as are approved by Auxiliary's governing body. Auxiliary shall file, as **Attachment 2** to this agreement, a statement of Auxiliary's policy on accumulation and use of public relations funds. The statement shall include the policy and procedures for solicitation of funds, the purposes for which the funds may be used, the allowable expenditures and procedures of control.

## **7. FISCAL AUDITS**

Auxiliary agrees to comply with CSU policy and the provisions of CCR tit.5, §42408, regarding fiscal audits. All fiscal audits shall be conducted by auditors meeting the guidelines established in the Integrated CSU Administrative Manual (ICSUAM).

The Campus CFO shall annually review, and submit a written evaluation to the Chancellor's Office in accordance with Section 20, Notices, of the external audit firm selected by the Auxiliary. This review by the Campus CFO must be conducted prior to the Auxiliary engaging an external audit firm and annually thereafter. If the Auxiliary has not changed audit firms, and the audit firm was previously reviewed and received a satisfactory evaluation, a more limited review may be conducted and submitted.

## **8. USE OF NAME**

Campus agrees that Auxiliary may, in connection with its designated functions as a CSU auxiliary organization in good standing and this agreement, use the name of the Campus, the Campus logo, seal or other symbols and marks of the Campus, provided that Auxiliary clearly communicates that it is conducting business in its own name for the benefit of Campus.

All correspondence, advertisements, and other communications by Auxiliary must clearly indicate that the communication is by and from Auxiliary and not by or from CSU or Campus.

Auxiliary shall use the name of Campus, logo, seal or other symbols or marks of Campus only in connection with services rendered for the benefit of Campus and in accordance with Campus guidance and direction furnished to Auxiliary by Campus and only if the nature and quality of the services with which the Campus name, logo, seal or other symbol or mark are used are satisfactory to the Campus or as specified by Campus.

Campus shall exercise control over and shall be the sole judge of whether Auxiliary has met or is meeting the standards of quality of the Campus for use of its name, logo, seal or other symbol or mark.

Auxiliary shall not delegate the authority to use the Campus name, logo, seal or other symbol or mark to any person or entity without the prior written approval of the Campus President or designee. Auxiliary shall cease using the Campus name, logo, seal or other symbol or mark upon expiration or termination of this agreement, or if Auxiliary ceases to be a CSU auxiliary organization in good standing, dissolves or disappears in a merger.

#### **9. CHANGE OR MODIFICATION OF CORPORATE STATUS**

Auxiliary shall provide notice to the CSU upon any change in Auxiliary's legal, operational or tax status including but not limited to changes in its Articles of Incorporation, bylaws, tax status, bankruptcy, dissolution, merger, or change in name.

#### **10. FAIR EMPLOYMENT PRACTICES**

In the performance of this agreement, and in accordance with California Government Code §12900 et. seq., Auxiliary shall not deny employment opportunities to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status. Auxiliary shall adopt employment procedures consistent with the policy statement on nondiscrimination and affirmative action in employment adopted by the CSU.

#### **11. BACKGROUND CHECK POLICY COMPLIANCE**

In compliance with governing laws and CSU policy, Auxiliary shall confirm that background checks are completed for all new hires and for those independent contractors, consultants, outside entities, volunteers and existing employees in positions requiring background checks as set forth in CSU systemwide policy. Auxiliary will provide confirmation of completed and cleared background checks to the University President/Chancellor upon request, or as established by campus policy. (See HR 2016-08).

## **12. DISPOSITION OF ASSETS**

Attached hereto as **Attachment 3** is a copy of Auxiliary's Constitution or Articles of Incorporation (as applicable) which, in accordance with CCR tit.5, §42600, establishes that upon dissolution of Auxiliary, the net assets other than trust funds shall be distributed to one or more nonprofit corporations organized and operated for the benefit of California State University East Bay; such corporation or corporations to be selected by the Foundation's Board of Trustees and approved by the President of the University and the Chancellor of the CSU. Auxiliary agrees to maintain this provision as part of its Constitution or Articles of Incorporation. In the event Auxiliary should change this provision to make other dispositions possible, this agreement shall terminate as of the date immediately preceding the date such change becomes effective.

## **13. USE OF CAMPUS FACILITIES**

Auxiliary may use those facilities identified for its use in a lease agreement executed between Campus and Auxiliary. If this Operating Agreement terminates or expires and is not renewed within 30 days of the expiration, the lease automatically terminates, unless extended in writing by the parties.

Auxiliary and Campus may agree that Auxiliary may use specified Campus facilities and resources for research projects and for institutes, workshops, and conferences only when such use does not interfere with the instructional program of Campus and upon the written approval from appropriate Campus administrators with such specific delegated authority. Auxiliary shall reimburse Campus for costs of any such use.

## **14. CONTRACTS FOR CAMPUS SERVICES**

Auxiliary may contract with Campus for services to be performed by state employees for the benefit of Auxiliary. Any agreement must be documented in a written memorandum of understanding between Auxiliary and Campus. The memorandum of understanding shall among other things, specify the following: (a) full reimbursement to Campus for services performed by a state employee in accord with CCR tit.5, §42502(f); (b) Auxiliary must clearly identify the specific services to be provided by state employee, (c) Auxiliary must specify any performance measures used by Auxiliary to measure or evaluate the level of service; (d) Auxiliary must explicitly acknowledge that Auxiliary does not retain the right to hire, supervise or otherwise determine how to fulfill the obligations of the Campus to provide the specified services to Auxiliary.

## **15. DISPOSITION OF NET EARNINGS**

Auxiliary agrees to comply with CSU and Campus policy on expenditure of funds including, but not limited to, CSU guidelines for the disposition of revenues in excess of expenses and CSU policies on maintaining appropriate reserves. Cal. Educ. Code §89904; Executive Order 1059.

## **16. FINANCIAL CONTROLS**

Recovery of allowable and allocable indirect costs and maintenance and payment of operating expenses must comply with ICSUAM §13680. CCR tit. 5, §42502(g) and (h).

## **17. ACCEPTANCE, ADMINISTRATION, AND USE OF GIFTS**

Auxiliary agrees, if authorized to do so in Section 2 above, that it will accept and administer gifts, grants, contracts, scholarships, loan funds, fellowships, bequests, and devises in accordance with policies of CSU and Campus.

### **A. Authority to Accept Gifts**

If authorized, Auxiliary may evaluate and accept gifts, bequests and personal property on behalf of CSU. In acting pursuant to this delegation, due diligence shall be performed to ensure that all gifts accepted will aid in carrying out the CSU mission as specified in Education Code §§89720 and 66010.4(b).

Auxiliary agrees, before accepting gifts of real estate or gifts with any restrictive terms or conditions that impose an obligation on CSU or the State of California to expend resources in addition to the gift, to obtain written approval from the appropriate campus authority. Auxiliary agrees that it will not accept a gift that has any restriction that is unlawful.

### **B. Reporting Standards**

Gifts shall be recorded in compliance with the Council for Advancement and Support of Education and California State University reporting standards and shall be reported to the Chancellor's Office on an annual basis in accordance with Education Code §89720.

## **18. INDEMNIFICATION**

Auxiliary agrees to indemnify, defend and save harmless the CSU, its officers, agents, employees and constituent campuses and the State of California, collectively "CSU indemnified parties" from any and all loss, damage, or liability that may be suffered or incurred by CSU indemnified parties, caused by, arising out of, or in any way connected with the operation of Auxiliary as an auxiliary organization.

## **19. INSURANCE**

Auxiliary shall maintain insurance protecting the CSU and Campus as provided in this section. CSU's Systemwide Office of Risk Management shall establish minimum insurance requirements

for auxiliaries, based on the insurance requirements in [Technical Letter RM 2012-01](#) or its successor then in effect. Auxiliary agrees to maintain at least these minimum insurance requirements.

Auxiliary's participation in a coverage program of the California State University Risk Management Authority (CSURMA) shall fully comply with the insurance requirement for each type of required coverage (which may include but not be limited to, general liability, auto liability, directors and officers liability, fiduciary liability, professional liability, employer's liability, pollution liability, workers' compensation, fidelity, property and any other coverage necessary based on Auxiliary's operations). Auxiliary shall ensure that CSU and Campus are named as additional insured or loss payee as its interests may appear.

## **20. NOTICES**

All notices required to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed to all parties as provided below:

Notice to Auxiliary shall be addressed as follows:

President  
Cal State East Bay Educational Foundation  
25800 Carlos Bee Blvd  
Hayward, CA 94542

Notice to the CSU shall be addressed to:

Trustees of the California State University  
401 Golden Shore  
Long Beach, CA 90802  
Attention: Director, Contract Services & Procurement

Notice to the Campus shall be addressed as follows:

Office of the President  
California State University, East Bay  
25800 Carlos Bee Blvd  
Hayward, CA 94542

## **21. AMENDMENT**

This agreement may be amended only in writing signed by an authorized representative of all parties.

**22. RECORDS**

Auxiliary shall maintain adequate records and shall submit periodic reports as required by CSU showing the operation and financial status of Auxiliary. The records and reports shall cover all activities of Auxiliary whether pursuant to this agreement or otherwise.

**23. TERMINATION**

CSU may terminate this agreement upon Auxiliary's breach of or failure to comply with any term of this agreement by providing Auxiliary with a minimum of ninety (90) days advance written notice. Auxiliary may use the ninety-day advance notice period to cure the breach. If, in the judgment of CSU, the breach has been cured, the termination notice will be cancelled.

**24. REMEDIES UPON TERMINATION**

Termination by CSU of this agreement pursuant to Section 23, *Termination*, may result in Auxiliary's removal, suspension or probation as a CSU auxiliary in good standing, and loss of any right for Auxiliary to use the name, resources or facilities of CSU or any of its campuses.

Upon expiration of the term of this agreement, the parties shall have 30 days to enter into a new operating agreement which period may be extended by written mutual agreement.

**25. SEVERABILITY**

If any section or provision of this Agreement is held illegal, unenforceable or in conflict with any law by a court of competent jurisdiction, such section or provision shall be deemed severed and the validity of the remainder of this Agreement shall not be affected thereby.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto.

Approved: 11/20, 2017

California State University, East Bay

By Leroy M. How  
President

Executed on 11/20, 2017

Cal State East Bay Educational Foundation

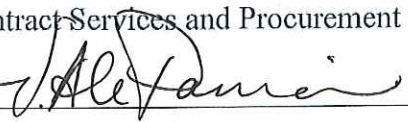
By William J. ...  
President





Executed on 1/30/18, 2017

California State University  
Office of the Chancellor  
Contract Services and Procurement

By 



# Conflict of Interest Policy

**Policy Title:**

Conflict of Interest Policy - Educational Foundation

**Policy Number:**

POL-EF001

**Issuing Date:** 12/03/2008

**Effective Date:** 12/03/2008

**Last Modified Date:**

3/10/2010

**Supercedes:**

none

**Policy Owner:**

President, Cal State East Bay Educational Foundation

**Office of Origin:**

Cal State East Bay Educational Foundation

**Policy Approval Authorities:**

Board of Trustees, Cal State East Bay Educational Foundation

## 2. Purpose of the Policy

2.1 The directors of a charity owe it a duty of loyalty. The duty of loyalty requires a director to act in the interest of the charity rather than in the personal interest of the director or some other person or organization.

2.2 The public expects a charity to abide by ethical standards that promote the public good. The organization's governing body bears the ultimate responsibility for setting ethical standards and ensuring they permeate the organization and inform its practices. Policies such as a Conflict of Interest policy will address potential conflicts of interests involving directors, trustees, officers, and other employees.

2.3 It is the intent of the Cal State East Bay Educational Foundation to adhere to all laws and regulations that apply to the organization and the underlying purpose of this policy is to support the organization's goal of legal compliance. The support of all employees and volunteers is necessary to achieving compliance with various laws and regulations.

## 3. Detailed Policy Statement

3.1 Recognized auxiliary organizations of California State University, East Bay, including the Cal State East Bay Educational Foundation, will comply with the conflict of interest requirements set forth in the Compilation of Policies and Procedures for California State University Auxiliary Organizations and the California Education Code.

## 4. Applicability

4.1 This policy applies to the Cal State East Bay Educational Foundation, an auxiliary of California State University, East Bay, and its board members, managers, exempt employees, and contracted consultants.

## 5. Definitions

5.1 A "conflict of interest" occurs when an individual or organization is involved in multiple interests, one of which could possibly corrupt the motivation for an act in the other.

## 6. References

6.1 Conflict of Interest Excerpt from the Compilation of Policies and Procedures for California State University Auxiliary Organizations:

Excerpt

6. CONDUCT OF THE GOVERNING BOARD

6.1 Conflict of Interest Regulations

6.1.1

The legislature has established certain restrictions on governing board members that could result in or be perceived as a conflict of interest. These restrictions also extend to an entity with whom a governing board member has a relationship. In general, the statutes prohibit a governing board member (either the member, or the member in association with another entity) from having a financial interest or contract with the auxiliary organization they are serving.

Appendix B

Education Code Sections - Auxiliary Organizations

89906. No member of the governing board of an auxiliary organization shall be financially interested in any contract or other transaction entered into by the board of which they are a member, and any contract or transaction entered into in violation of this section is void.

89907. No contract or other transaction entered into by the governing board of an auxiliary organization is void under the provisions of Section 89906, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under said provisions, if the circumstances specified in the following subdivisions exist:

(a) The fact of such financial interest is disclosed or known to the governing board and noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested member or members, and (b) The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved.

89908. The provisions of Section 89907 shall not be applicable if the circumstances specified in any of the following subdivisions exist:

- (a) The contract or transaction is between an auxiliary organization and a member of the governing board of that auxiliary organization.
- (b) The contract or transaction is between an auxiliary organization and a partnership or unincorporated association of which any member of the governing board of that auxiliary organization is a partner or in which he is the owner or holder, directly or indirectly, of a proprietorship interest.
- (c) The contract or transaction is between an auxiliary organization and a corporation in which any member of the governing board of that auxiliary organization is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock.
- (d) A member of the governing board of an auxiliary organization is interested in a contract or transaction within the meaning of Section 89906, and without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

7. Implementation Procedures

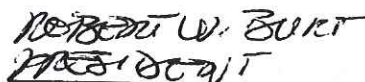
7.1 Board Members, managers, exempt employees, and contracted consultants of the auxiliary organizations will annually file conflict of interest statements as follows:

7.1.1 Board Members will annually complete and submit the Related Parties Questionnaire.

7.1.2 Managers/Exempt Employees/Consultants will annually complete and submit the Statement of Economic Interests (FPPC Form 700) at <http://www.fppc.ca.gov/index.html?id=36>.

8. Approvals

  
Signature and Date 2/10/10

  
Print Name, Department

**Cal State East Bay Educational Foundation**  
 California State University, East Bay  
 25800 Carlos Bee Boulevard  
 Hayward, CA 94542-3004  
**Related Parties Questionnaire**

Trustee Name: \_\_\_\_\_

1) Have you or any related party of yours had any interest, direct or indirect, in any of the following transactions since July 1, 20\_\_ to which the Cal State East Bay Educational Foundation was, or is to be, a party?

- |   | YES   | NO    |
|---|-------|-------|
| • Sale, purchase, exchange, or leasing of property?                                 | _____ | _____ |
| • Receiving or furnishing of goods, services, or facilities?                        | _____ | _____ |
| • Transfer or receipt of compensation, fringe benefits, or income or assets?        | _____ | _____ |
| • Maintenance of bank balances as compensating balances for the benefit of another? | _____ | _____ |
| • Other transactions?   | _____ | _____ |

2) Do you or any related party of yours have any interest, direct or indirect, in any of the following pending or incomplete transactions to which the Cal State East Bay Educational Foundation is, or is to be, a party?

- |   | YES   | NO    |
|---|-------|-------|
| • Sale, purchase, exchange, or leasing of property?                                 | _____ | _____ |
| • Receiving or furnishing of goods, services, or facilities?                        | _____ | _____ |
| • Transfer or receipt of compensation, fringe benefits, or income or assets?        | _____ | _____ |
| • Maintenance of bank balances as compensating balances for the benefit of another? | _____ | _____ |
| • Other transactions?   | _____ | _____ |

Have you or any related party of yours been indebted to or had a receivable from the Cal State East Bay Educational Foundation at any time since July, 20\_\_? Please exclude amounts due for ordinary travel and expense advances.

YES \_\_\_\_\_ NO \_\_\_\_\_

3) Do you know of any related party or any other person or entity that has misappropriated assets or committed other forms of fraud against the organization?

YES \_\_\_\_\_ NO \_\_\_\_\_

4) Do you know of any person or organization that should be receiving this questionnaire?

YES \_\_\_\_\_ NO \_\_\_\_\_

5) Have you or any related party of yours had any interest, direct or indirect, in any transactions since July 1, 20\_\_, or in any pending or incomplete transactions, to which any pension, retirement, savings, or similar plan provided by Cal State East Bay Educational Foundation was, or is to be, a party? Do not include payments to a plan or payments by the plan made pursuant to the terms of the plan.

YES \_\_\_\_\_ NO \_\_\_\_\_

6) Do you receive compensation from any other organization, whether tax-exempt or taxable, that are related to this organization through common supervision or common control?

YES \_\_\_\_\_ NO \_\_\_\_\_

The answers to the foregoing questions are correctly stated to the best of my knowledge and belief.

Signature: \_\_\_\_\_ Date \_\_\_\_\_



CAL STATE EAST BAY EDUCATIONAL FOUNDATION

SECTION NO. **100**

POLICY STATEMENT

DOCUMENT NO. **101**

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SECTION: **POLICY STATEMENT - GENERAL AND ADMINISTRATIVE**

SUBJECT: **SOURCE AND USE OF PUBLIC RELATIONS FUNDS**

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PURPOSE: To provide policy guidance on the accumulation and use of funds by the Foundation for public relations purposes.

EFFECTIVE DATE: November 28, 2012

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## **I. BACKGROUND**

Title 5 of the California Code of Regulations, §42502(i), requires each auxiliary organization to maintain a policy on the "accumulation and use of public relations funds if such funds are obtained and used by the auxiliary organization to augment State appropriations for public relations." The policy must include "...the policy and procedure on solicitation of funds, source of funds, amounts, and purpose for which the funds will be used, allowable expenditures, and procedures of control."

Executive Order No. 761 prescribes rules and restrictions that apply to hospitality expenses and reimbursements for fund sources, including those held and administered by an auxiliary organization.

## **II. POLICY**

### **Solicitation and Accumulation of Public Relations Funds**

The Foundation does not solicit public relations funds, and does not annually budget for funds to be available for public relations purposes.

### **Source of Public Relations Funds**

Public relations funds, when expended, may be sourced from Foundation-held Discretionary or Restricted Funds. These funds may be derived from various sources including corporate auxiliary revenues, donations, or the proceeds from the sale of non-cash gifts made to the Foundation. Expenditures from Discretionary or Restricted Funds must clearly advance the objectives of the campus and the California State University, and that are consistent with applicable procurement and accounting practices. In general, expenditures must be appropriate for campus authorized educational, social, development, hospitality, community and employee relations, employee business travel and related considerations, student aid, and for other purposes that benefit California State University or the campus. All expenditures from a Restricted Fund must be clearly consistent with the restricted purpose.

### **Procedures**

Any expenditure of Foundation funds for purposes of public relations shall only be at the request of the University President. The source of funds would be any Discretionary or Restricted Fund account that is available to the President. Consistent with sound purchasing policies and procedures, the request shall be accompanied by appropriate supporting documentation, with dates, purpose and individuals or groups involved, location, and amounts clearly stated, and any other requirements.

Foundation management is authorized to adopt written guidelines to implement this policy statement, consistent with Executive Order No. 761, dated October 31, 2000.

### **Policy Filing**

The Foundation shall file a copy of this Policy with the Chancellor's Office, as required by Title 5 of the California Code Regulations, §42502(i).



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Secretary of State  
State of California

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CAL STATE EAST BAY EDUCATIONAL FOUNDATION

RESTATED ARTICLES OF INCORPORATION

The undersigned certify that:

1. They are the President and Secretary, respectively, of Cal State East Bay Educational Foundation, a California corporation.

2. The Articles of Incorporation of this corporation are amended and restated to read as follows:

ARTICLE I.

Corporate Name/Registered Office

The name of this corporation shall be Cal State East Bay Educational Foundation.

ARTICLE II.

Corporate Status

This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public purposes.

ARTICLE III.

Purposes

The corporation is organized, and at all times hereafter shall be operated in connection with, exclusively for the benefit of, to perform the functions of, or to carry out the mission of California State University, East Bay. This corporation is organized exclusively for public purposes within the meaning of Section 501(c) (3) of the Internal Revenue Code of 1986 as amended. The specific and primary purposes for which this corporation is organized are:

- (a) To advance the future development of California State University, East Bay by providing the community with a better understanding of the University's teaching, research and public service mission and accomplishments;
- (b) To raise the community's awareness of the need for private support;
- (c) To solicit gifts on behalf of the University; and
- (d) To effectively carry out its fiduciary responsibilities.

The foregoing provisions shall be construed as both purposes and powers of this corporation, but no recitation, expression, or declaration of specific or special powers or purposes herein enumerated shall be deemed to be exclusive, but it is hereby expressly declared that all other lawful purposes and powers not inconsistent herewith are hereby included.

#### ARTICLE IV. Conformity with Law

The corporation shall be an auxiliary organization of California State University, East Bay, and shall conduct its operations in conformity with the California statutes governing such organizations (Chapter 7, commencing with Section 89900, of Part 55, Division 8, Title 3 of the Education Code) and the Regulations adopted by the Board of Trustees of California State University (Subchapter 6, commencing with Section 42400, of Chapter 1, Division 5 of Title 5 of the California Code of Regulations) as required by the Education Code, Section 89900 (c).

#### ARTICLE V. Exempt Status and Limitations on Activities

This corporation is organized and shall be operated exclusively for public purposes, including but not limited to the purposes stated in Article III. No substantial part of the activities of this corporation shall consist of the carrying on of propaganda, or otherwise attempting to influence legislation; provided, however, that notwithstanding the foregoing, this corporation shall have the power to make the election provided

for in Section 501 (h) of the Internal Revenue Code of 1986 as amended with respect to influencing legislation and, only if it so elects; to make lobbying or grass roots expenditures that do not normally exceed the ceiling amounts prescribed by Section 501 (h) (2) (B) and (D) of the Internal Revenue Code of 1986 as amended. This corporation shall not participate or intervene in any political campaign (including publishing or distributing of statements) on behalf of or in opposition to any candidate for public office. Notwithstanding any provisions of these articles, this corporation shall not engage in any activities or exercise any powers that are not in furtherance of the purposes of this corporation, and this corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1986 as amended or (b) by a corporation contribution to which are deductible under Section 170 (c) (2) of the Internal Revenue Code of 1986 as amended.

ARTICLE VI.  
Directors

The number of Directors, their qualifications, powers, duties, terms of office, manner of removal and filling vacancies on the Board, and the manner of calling and holding meetings of directors, shall be stated in the Bylaws.

ARTICLE VII.  
Members

This corporation shall have no members other than the persons constituting its Board of Directors. The Board of Directors shall, under any statute or rule of law, be the members of this corporation and shall have all the rights and powers members would otherwise have.

ARTICLE VIII.  
Voting

Each voting member of the Board of Directors shall have one vote. There shall be no proxy voting permitted for the transaction of any of the business of this corporation.

#### ARTICLE IX.

##### Irrevocable Dedication and Dissolution

The property, assets, profits and net income of this Corporation are irrevocably dedicated to the public purposes set forth in Article III, and no part of the profits or net income or assets of this Corporation shall ever injure to the benefit of any private shareholder or individual. Upon the dissolution of this Corporation, net assets remaining after payment of, or provision for payment of, all debts and liabilities of this corporation, other than trust funds, shall be distributed to one or more nonprofit corporations organized and operated for the benefit of California State University, East Bay; such corporation or corporations to be selected by the Board of Trustees of this corporation and approved by the President of the University and the Chancellor of the California State University. Such nonprofit corporation or corporations must be qualified for Federal income tax exemptions under Section 501 (a) and 501 (c) of the United States Internal Revenue Code of 1954 and be organized and operated exclusively for charitable, scientific, literary or educational purposes, or for a combination of said purposes. In the alternative, upon dissolution of the corporation, net assets remaining after payment of, or provision for payment of, all debts and liabilities of this corporation other than trust funds shall be distributed to California State University, East Bay or any successor approved by the campus president and the CSU Chancellor.

#### ARTICLE X.

##### Amendments

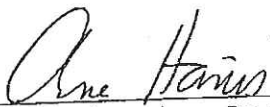
These Articles of Incorporation may be amended in the manner authorized by law and the bylaws of the corporation at the time of amendment.


3. The foregoing amended and restated Articles of Incorporation has been duly approved by the Board of Directors and the President of California State University, East Bay.

4. The corporation has no members.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: November 28, 2012

  
\_\_\_\_\_  
Anne Harris, President (Interim)

  
\_\_\_\_\_  
Marvin A. Remmich, Secretary



I hereby certify that the foregoing transcript of 5 page(s) is a full, true and correct copy of the original record in the custody of the California Secretary of State's office.

MAY 22 2013

Date: \_\_\_\_\_

ED

*Debra Bowen*  
DEBRA BOWEN, Secretary of State