

# KANSAS WESLEYAN UNIVERSITY FOUNDATION

Salina, Kansas

## BYLAWS (Amended December 2019)

### ARTICLE I: GENERAL PROVISIONS

- 1.1 **Name:** The name of the corporation is the KANSAS WESLEYAN UNIVERSITY FOUNDATION. Such corporation shall herein be referred to as the Foundation.
- 1.2 **Registered Office.** The registered office of the Foundation in the State of Kansas shall be located at 100 East Claflin Avenue, Salina, Kansas 67401-6196.
- 1.3 **Resident Agent.** The name and address of this Foundation's resident agent in the State of Kansas is the KANSAS WESLEYAN UNIVERSITY FOUNDATION, 100 East Claflin Avenue, Salina, Kansas 67401.
- 1.4 **Term.** The term for which this Foundation is to exist is perpetual.
- 1.5 **Fiscal Year.** The fiscal year shall end the 30<sup>th</sup> day of June each year.
- 1.6 **Rules and Regulations.** The Trustees may adopt and compile rules and regulations for the effective conduct of its business and such shall have the force and effect of bylaws.
- 1.7 **Policy Decisions.** Decisions and determinations of policy may be compiled with under the supervision of the Secretary for easy access and reference by the Trustees.
- 1.8 **Definitions.** Any time the term "trustees" appears in the Bylaws, it shall mean the Board of Trustees of the Foundation, unless otherwise specifically indicated.
- 1.9 **Reporting.** The Chair or his/her delegate shall make an annual report each fall to the Kansas Wesleyan University Board of Trustees. Such report shall include but not be limited to: assets, liabilities, and income statements.

**ARTICLE II:**

**PURPOSE**

**2.1 Not-for-Profit Purpose.**

This Foundation is organized as a not-for-profit corporation and shall have no authority to issue capital stock.

**2.2 General Purpose.**

This Foundation is organized exclusively for charitable, religious, scientific, literary or educational, and benevolent purposes.

**2.3 Specific Education Purposes.**

The Foundation is organized for education purposes and is to be a supporting association for the financial aid and assistance of Kansas Wesleyan University. In order to fulfill this specific education objective, the Foundation may secure gifts or money or other property to be used for the advancement of education, research, and other educational purposes.

**ARTICLE III:**

**POWERS OF CORPORATION**

**3.1 General Powers.**

The Foundation may engage in any lawful act or activity for which a corporation may be organized under the Kansas General Corporation Code and which is within the exempt purposes of the Foundation except for express limitations, if any, contained in the Articles and under the limitations of applicable federal laws and regulations.

**3.2 Specific Powers**

In addition to the foregoing general powers, this Foundation shall have the following specific powers:

**3.2.1**

**Own Property.** It may own, lease, manage, operate, maintain, mortgage and pledge real estate and personal property, except restricted endowment funds, for such uses as will meet the stated purposes of this Foundation.

**3.2.2**

**Make Contracts.** It may make contracts, including contracts of guaranty and suretyship, incur liabilities, borrow money at any such rates of interest as the Foundation may determine acceptable, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage, pledge, or other encumbrance of all or any of its property, franchises, and income.

**3.2.3 Accept Gifts.** It may receive and hold any property, real and personal, given, devised, bequeathed, given in trust, or in any other way made over to the Foundation.

**3.2.4 Manage Gifts.** It may invest and disburse all assets so received, and generally to care for, manage, administer, and control all such properties so received.

**3.2.5 Carry Out Donor Instructions.** It shall carry out the wishes and see that the funds and property so received are applied to the uses specified by the donor; or, in the case a gift, devised, or bequest to this Foundation is not designated, then to such uses as will meet the stated purposes of the Foundation as determined by the Board of Trustees.

**3.3 Restrictions on Powers.**

Notwithstanding any other provisions of these Bylaws, this Foundation shall have the following restrictions on its powers:

**3.3.1 Non-Profit Restrictions.** Notwithstanding any other provisions of these Bylaws, the Foundation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501 (c)(3) of the Internal Revenue Code of 1986 (or corresponding provisions of any future United States Internal Revenue Law) or (ii) by a corporation, contributions to which are deductible under Section 170 (c)(2) of the Internal Revenue Code of 1986 (or corresponding provisions of any future United States Internal Revenue Law).

**3.3.2 No Compensation to Trustees.** No compensation or payment shall ever be paid or made to any member, officer, director, trustee, creator, or organizer of this Foundation or substantial contributor to it (except as an allowance for actual expenditure or service actually made or rendered to or for this Foundations). Neither the whole nor any portion of the assets or net earnings current or accumulated of this Foundation shall ever be distributed to or divided among any such persons, and neither the whole nor any part or portion of such assets or net earnings shall ever be used for, accrued to, or inure to the benefit of any member or private individual within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954 (or corresponding provisions of any future United States Internal Revenue Law).

**3.3.3**

**Political Activities Prohibited.** No substantial part of the activities of the Foundation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Foundation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

**3.4 Assets Upon  
Dissolution.**

Upon dissolution of the Foundation, the Board of Trustees shall, after paying or making provision for the payment of all of the liabilities of the Foundation, dispose of all the assets of the Foundation according to the following enumerated priorities: (1) Where specific instructions have been given by a donor for the distribution of a specific gift, devise, or bequest in the event the Foundation is dissolved, such instructions must be followed by the Board of Trustees unless such instructions are contrary to law; (2) All other assets of the Foundation should pass exclusively to and for the benefit of Kansas Wesleyan University, 100 East Claflin Avenue, Salina, Kansas 67401-6196, if it would then qualify as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provisions of any future United States Internal Revenue Law); (3) In the event that Kansas Wesleyan University is not so qualified, then all other assets, as determined by the Board of Trustees, shall go to such organizations as they deem appropriate to be used for the United Methodist educational purposes so long as such organizations will qualify as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provisions of any future United States Internal Revenue Law), and which satisfies any specific restrictions imposed by the donors; (4) Any assets not disposed of pursuant to the foregoing priorities shall be disposed of by the District Court of the county in which the principal office of the Foundation is then located, exclusively to such organization or organizations, as the court shall determine, most closely satisfy the purpose or purposes for which such assets were originally donated.

**3.5 Exempt and Charitable**

**Purpose.** Notwithstanding any other provisions of these Bylaws, the Foundation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provisions of any future United States Internal Revenue Law) or (ii) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 (or corresponding provisions of any future United States Internal Revenue Law).

**ARTICLE IV: MEMBERSHIP**

The members of this Foundation shall be its original incorporators until its Trustees are elected by the Foundation Board of Trustees. The duly elected Trustees shall constitute the membership of the Foundation.

All rights, powers, duties and obligations usually vested in the members of a non-profit corporation shall be vested in the Trustees in accordance with law and these Bylaws.

**ARTICLE V: MANAGEMENT**

Management of the business and affairs of the Foundation shall be vested in and conducted by its Board of Trustees, the Executive Committee and its officers, and the Administrator.

The Foundation Board may execute an administrative services agreement with Kansas Wesleyan University for the senior Advancement officer to serve as an administrator and provide management and administrative services to the Foundation.

**ARTICLE VI: TRUSTEES**

**6.1 Number.** Management of the Foundation shall be vested in a Board of Trustees consisting of a maximum of (12) persons with an established minimum of seven (7) persons.

**6.1.1** The Chairperson of the University Board of Trustees, the President of Kansas Wesleyan University, the Foundation Administrator, and the Kansas Wesleyan University Chief Financial Officer shall serve ex-officio without vote.

**6.1.2** Other than the ex-officio members, the Trustees shall be elected by the Foundation Board.

- 6.2 Qualification.** Trustees shall be selected from adults who accept in principle the purposes of this Foundation and are deemed qualified to participate in the attainment of its objectives and the management of its business. A trustee shall be deemed qualified as such when an acceptance of office has been communicated in writing to the Board Secretary.
- 6.3 Term.** Trustees, except the four executives who shall serve ex-officio, shall serve terms of four (4) years. A Trustee may serve successive terms if elected, not to exceed two (2) successive full terms.
- 6.3.1** For purpose of succession, the Chairperson and Vice Chairperson shall not be subject to regular term limits while serving in those roles.
- 6.3.2** The Immediate Past Chairperson shall provide ongoing continuity to the work of the Executive Committee and Board based on his/her experiences, including advice and historical perspective, and other actions as necessary and appropriate.
- 6.3.3** The Treasurer and Secretary shall serve for a term of one (1) year or until successors are elected and qualified.
- 6.3.4** Any vacancy among the officers may be filled at any duly constituted meeting of the Board upon nomination.
- 6.4 Duties.** The Trustees shall govern and manage all affairs of the Foundation in accordance with law and its decisions in annual, regular and special meetings.
- 6.5 Resignation.** Any Trustee or officer of the Foundation may resign upon filing written resignation with the Secretary of the Foundation, and such resignation shall become effective when so filed unless some subsequent effective date is set forth in the resignation.
- 6.6 Vacancies.** Vacancies on the Board of Trustees shall be filled by the entity that appointed the Trustee position that is now vacant, and any Trustees so chosen to fill vacancies shall hold office until the next annual meeting of the Trustees unless sooner displaced, or until their term of office is terminated by resignation, death, or disability.

**ARTICLE VII:**

**MEETINGS OF TRUSTEES**

**7.1 Place.** All meetings of the Trustees shall be held at the principal place of business in this State, or at such places as may be designated by the Board of Trustees, either within or without the State of Kansas.

**7.2 Meeting Times.**

**7.2.1 Annual.** The annual meeting of the Trustees of this Foundation shall be held each year as set by resolution of the Board of Trustees for the purpose of: (1) election of trustees; (2) election of officers; (3) transaction of such other business as may properly be presented and come before such meeting.

**7.2.2 Regular.** Regular meetings shall be held at such times as may be fixed from time to time by resolution of the Board of Trustees.

**7.2.3 Special.** Special meetings of the Trustees may be called by Chairperson or by any three (3) Trustees, excluding ex-officio Trustees, as deemed necessary. Business to be transacted shall be limited to matters specified by the notice given.

**7.2.4 Telephone or Electronic Communication.** Members of the Board of Trustees, or any committee thereof, 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 hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

**7.3 Notice of Meeting.**

**7.3.1 Notice.** Notice of any meeting may be given in writing by mailing or electronic communication to the person entitled thereto at the last known address shown on the records of the Foundation.

**7.3.2 Waiver.** Whenever notice is required to be given by these Bylaws, the Articles of Incorporation, or by statute, a written waiver thereof, signed by the persons entitled to notice, whether before or after the times state therein shall be deemed equivalent to notice. Attendance of a person at a meeting constitutes a waiver of notice, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

**7.3.3**

**Action by Consent.** Unless otherwise provided in the Articles of Incorporation, any action required by this act to be taken at any annual or special meeting of Trustees of the Foundation, or any action which may be taken at any annual or special meeting of such Trustees, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by all Trustees entitled to vote thereon. In the event that such action which is consented to is such as would have required the filing of a certificate filed under such other section shall state, in lieu of any statement required by such section concerning a vote of Trustees, that written consent has been given in accordance with the provisions of this section.

**7.4 Pre-agenda.**

A written agenda of matters to be considered insofar as reasonably ascertainable, should be mailed in advance or any meeting, except in instances when telephone or electronic communication methods are used to conduct a meeting or when a waiver or notice may apply.

**7.5 Quorum.**

A majority of the total members shall constitute a quorum at all meetings of the Trustees for the transactions of business except as otherwise provided by law, or by these Bylaws. Such number may either be personally present or represented by proxy. In the event such number is not quorum, the members present in person and by proxy have the power to adjourn the meeting from time to time without notice other than announcement at the meeting, until the requisite number of voting members shall be present at such adjourned meeting, and any business may be transacted at the meeting as originally notified.

**7.6 Voting Power,  
Proxy.**

Each member shall be entitled at every meeting of Trustees to one vote in person or by proxy, but no proxy shall be voted except as specifically given for a scheduled meeting or any adjournment thereof for lack of a quorum.

**7.7 Voting Procedure.**

All elections of Trustees and officers vote upon any other questions, except as otherwise provided by law or unless otherwise provide by resolution of the Board of Trustees, may be had by ballot, by voice, or by showing of hands unless a Trustees, at least five (5) days prior to the date of any meeting for the elections of Trustees, requests in writing a vote by ballot, and then the election shall be by ballot.



**ARTICLE VIII:**

**OFFICERS**

**8.1 Designated Officers.**

Officers of the Foundation shall be chosen by the Board of Trustees of the Foundation and shall be a Chairperson, a Vice Chair, and a Secretary and a Treasurer. The Secretary and Treasurer may or may not be the same person and may or may not be Trustees.

**8.2 Other Officers and Agents.**

The Foundation may have such other officers and agents as may from time to time be determined and appointed by the Board of Trustees, and for such terms as the Board of Trustees may determine.

**8.3 Term and Qualification of Officers.**

The officers of the Foundation shall hold their office for one year or until the next annual meeting of the Board of Trustees, or their successors are chosen and qualified, unless their respective terms of office have been terminated by resignation in writing, duly filed in the office of the Secretary of the Foundation.

**8.4 Removal of Officers.**

Any officer elected or appointed by the Board of Trustees may be removed at any time by the affirmative vote of a majority of the whole Board of Trustees.

**8.5 Chairperson.**

The Chairperson shall be the presiding officer of the Foundation Board.

**8.6 Vice Chairperson.**

A Vice Chairperson shall, in the absence or disability of the Chairperson, perform the duties and exercise the powers of the Chairperson, and shall perform such other duties as the Foundation Board may prescribe.

**8.7 Secretary.**

The Secretary may or may not be a Trustee.

**8.7.1**

The Secretary shall attend all sessions of the Board of Trustees and record all votes and the minutes of all proceedings, including rules and regulations and policy decisions, in a book to be kept for that purpose, and shall perform like duties for the standing committees.

8.7.2 The Secretary shall give, or cause to be given, notice of all meetings of the Board of Trustees and shall perform such other duties as may be prescribed by the Board of Trustees or Chairperson.

**8.8 Treasurer.**

The Treasurer may or may not be a Trustee. The Treasurer shall have such duties as may be prescribed by the Board of Trustees and, upon requirement of the Board of Trustees, shall give bond in such sum, and with such sureties, as may be determined from time to time by the Board of Trustees. Such bond, if issued other than by corporate surety, shall be renewed every year.

8.8.1 The Treasurer shall have custody of all funds and securities belonging to the Foundation and shall receive, deposit, or disburse the same under the direction of the Foundation Board.

8.8.2 The Treasurer shall keep full and accurate accounts of the finances of the Foundation using acceptable accounting procedures to provide a true statement of the assets and liabilities as needed.

8.8.3 At the end of each fiscal year, or at other times as may be requested by the Foundation Board, the Treasurer shall file a complete report on the financial operations of the Foundation at the principle office. A copy of said statement shall be mailed or otherwise delivered to each Trustee within four months after the end of each fiscal year.

8.8.4 The Treasurer shall, in general, perform all duties of the office and such other duties as may be assigned from time to time by the Chair of the Foundation Board.

**ARTICLE IX: STANDING COMMITTEES**

**9.1 Executive Committee.**

**9.1.1 Membership of Executive Committee.** The Board of Trustees shall appoint from their number an Executive Committee of not less than four (4) Trustees who shall include the Chair and Vice Chair of the Foundation. The Secretary, and the Treasurer of the Foundation, if not trustee-members, shall serve ex-officio without vote.

**9.1.2 Ad Interim Powers.** Unless the Board specifically directs otherwise, during the intervals between meetings of the Board of Trustees, the Executive Committee shall have, and may exercise, all the powers of the Board of Trustees in the management of the business and affairs of the Foundation in such manner as such committee shall deem in the best interest of the Foundation, except it may not amend the Articles of Incorporation or Bylaws.

**9.1.3 Budget.** The Executive Committee shall act as a Budget Committee.

**9.2 Finance and Investment.**

The Board of Trustees shall appoint a Finance and Investment Committee of not less than three (3) nor more than five (5) Trustees as recommended by the Nominating Committee, one of whom shall be designated as chairperson. The Chairperson and Treasurer of the Foundation shall serve ex-officio without vote. The committee shall supervise the management, investment and disbursement of funds and shall recommend funds of the Foundation to be deposited in such banks and other depositories for checking and savings as determined by resolution of the Board of Trustees which authorizes deposit and withdrawal on behalf of the Foundation upon signature of any two among the Chairperson, Secretary, Treasurer and others designated by the Executive Committee.

**9.3 Heritage Society for Planned Giving Committee.**

The Board of Trustees shall appoint a planned giving committee, to be called the “Heritage Society for Planned Giving.” The planned giving committee shall consist of three members of the Board of Trustees, and may work in coordination with the Advancement Office’s planned giving staff. The committee shall be charged with the following duties:

- Assisting with providing names of prospects for planned giving;
- Assisting with follow up to inquiries regarding planned giving;
- and, Assisting with promotion of the Heritage Society for Planned Giving;

**9.4 Audit.**

The Board of Trustees shall appoint an Audit Committee of three (3) Trustees, one of whom shall be designated as Chairperson as recommended by the Nominating Committee. The Audit Committee shall supervise the audit of funds of the Foundation, secure an annual outside auditor and supervise accounting methods and procedures and the furnishing of financial statements. The Treasurer and the Kansas Wesleyan University CFO shall serve ex-officio as non-voting members of the Audit Committee.

**9.5 Nominating Committee.**

The Board of Trustees shall appoint a Nominating Committee as recommended by the Executive Committee. The Nominating Committee shall recommend nominees for the Board of Trustees and officers of the Foundation. The Nominating Committee shall have not less than three (3) nor more than five (5) members and shall be members of the Foundation Board of Trustees.

**9.6 Other Committees.** The Chairperson, with the approval of the Executive Committee, may appoint other committees and designate specific tasks and duties under such terms as deemed necessary for the management of the business of the Foundation from time to time.

**9.7 Rules: Quorum; Ex-officio.**

All committees, unless otherwise provided in these Bylaws or by direction of the Board of Trustees from time to time, shall adopt their own rules of procedure. At all meetings of committees, a majority shall constitute a quorum, and the affirmative vote of a majority of a quorum shall control for the transaction of business.

The Chairperson and Vice Chair, ex-officio, may attend meetings and engage in the deliberation of all committees without vote, unless specifically authorized to vote in the description of the committee above.

**ARTICLE X: CONFLICTS OF INTEREST**

No contract or transaction between this Foundation and one of more of its Trustees or officers, or between this Foundation and any other corporation, partnership, association or other organization in which one or more of its Trustees or offices are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the Trustee or officer is present at or participates in the meeting of the board of committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose if either:

- (1) The material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Trustees or the committee, and the board or the committee in good faith authorized the contract or transaction by the affirmative votes of a majority of the disinterested Trustees even though the disinterested Trustees be less than a quorum; or

- (2) The contract or transaction is fair as to the Foundation as of the time it is authorized, approved or ratified by the Board of Trustees or a committee thereof duly authorized.
- (3) Any Trustee with a conflict of interest shall abstain from voting on the issue.

Common or interested Trustees may be counted in determining the presence of a quorum at a meeting of the Board of Trustees or of a committee which authorized the contract or transaction.

**ARTICLE XI: INDEMNIFICATION; INSURANCE**

**11.1 Indemnification.** This Foundation shall indemnify any Trustee, officer, employee or agent of the Foundation who was or is threatened to be made a party in any legal proceedings whether civil, criminal, administrative or investigative if successful on the merits or otherwise in defense, or even if unsuccessful in defense, if such person acted in good faith and in the reasonable belief that his actions were in or not opposed to the best interest of the Foundation.

**11.2 Insurance** The Foundation may purchase and maintain insurance on behalf of any Trustee, officer, employee or agent of the Foundation against any liability asserted against such person and incurred in such capacity whether or not the foundation would have power to indemnify such a person against such liability under the provisions of the above section.

**ARTICLE XII: AMENDMENTS**

These Bylaws and the Articles of Incorporation may be altered, repealed or amended by a majority of all members of the Board of Trustees and otherwise according to the provisions of the Kansas Corporation Code, and provided a majority of the total membership of the Board shall be present at the meeting, and provided, further, that notice in writing of the nature of the proposed amendment(s) has been distributed to each Board member at least ten (10) days before the voting upon the amendment(s). They shall become effective immediately upon adoption and shall be filed with proper authorities.

## **RECORD OF ADOPTION AND AMENDMENTS**

These Bylaws were adopted by The Kansas Wesleyan Foundation Board of Trustees at the regular meeting on:

Date: October 10, 1986  
Chair: Richard Zimmerman

Date: June 17, 1999  
Chair: Glen Kohr

Date: February 25, 2000  
Chair: Kay Jarvis

Date: April 14, 2010  
Chair: Pat Bolen

Date: November 2, 2011  
Chair: Martha Rhea

Date: June 5, 2014  
Chair: Martha Rhea

Date: December 19, 2019  
Chair: Ken Ebert