

KANSAS WESLEYAN UNIVERSITY FOUNDATION

A Kansas Not-for-Profit Corporation

Salina, Kansas

BYLAWS

(Amended April 2024)

The Kansas Wesleyan University Foundation was established in 1986 by supporters of KWU. The Foundation is an institutionally related non-profit, tax-exempt, 501(c)(3) organization, and it the repository for all private gifts to Kansas Wesleyan University through annual giving programs, capital and special campaigns, and planned or deferred gifts such as bequests and trusts. Contributions to the Kansas Wesleyan University Foundation are tax-deductible to the extent provided by law.

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. |
| 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 th day of June each year. |
| 1.6 Definitions | Any time the term "members" appears in the Bylaws, it shall mean the Kansas Wesleyan University Foundation members, unless specifically indicated. Any time "Foundation" appears, it shall mean the Kansas Wesleyan University Foundation. |
| 1.7 Rules and Regulations | The members may adopt and compile rules and regulations for the effective conduct of its business and such shall have the force and effect of bylaws. |
| 1.8 Policy Decisions | Decisions and determinations of policy may be complied with under the supervision of the Secretary for easy access and reference by the members. |

- 1.9 Reporting** The Chair or their delegate shall make an annual report each fall to the Kansas Wesleyan University Board of Trustees. Such report shall include by not be limited to assets, liabilities, and income statements.

ARTICLE 11: PURPOSES

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 do any legal actions or acts to provide support to Kansas Wesleyan University that the members deem to be in the best interests of Kansas Wesleyan University (the “University”), including but not limited to, the following: (i) to administer with fiduciary care the assets of the Foundation for the long-term enhancement of the University; (ii) to secure gifts or money or other property to be used for the advancement of education, research, and other educational purposes; (iii) to provide volunteer leadership and assistance to the University in its development and fundraising activities; and (iv) to provide broad advice, consultation, and support to the University.

2.4 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) on the Internal Revenue Code of 1986 (or corresponding provisions of any future United States Internal Revenue Law); or by (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 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 purpose of the 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, franchise, 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 received.
- 3.2.5 **Carry Out Donor Instructions.** The Foundation 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 of a gift, devised or bequest to the Foundation is not designated, then to such uses as will meet the stated purposes of the Foundation as determined by the members of the Foundation.

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 Members.** No compensation or payment shall ever be paid or made to any member or officer of this Foundation or substantial contributor to the Foundation (except as an allowance for the actual expenditure or service actually made or rendered to or for this Foundation). Neither the whole or 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 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.

ARTICLE IV: FOUNDATION BOARD MEMBERSHIP

- 4.1 Membership** The members of this Foundation shall be its original incorporators until its members are elected by the Foundation Board Members. The duly elected members shall constitute the membership of the Kansas Wesleyan University Foundation.

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

4.3 KWU Foundation and KWU Board of Trustees Chair

- 4.3.1** By virtue of position, the Chair of the Kansas Wesleyan University Board of Trustees automatically becomes ex-officio, non-voting member of the Kansas Wesleyan University Foundation Board, when elected to the role of Board Chair.

- 4.3.2** By virtue of position, the Chair of the Kansas Wesleyan University Foundation Board automatically becomes ex-officio, non-voting member of the Kansas Wesleyan University Board of Trustees, when elected to the role of Board Chair.

1. Each Chair will serve the other KWU Board without any fiduciary or voting obligations;
2. This connection between the Board of Trustees and the Foundation allows for sharing of expertise and experience that can often provide valuable insights and guidance to the Boards;
3. The University and the Foundation remain two separate entities, but this relationship fosters communication between the two Boards for the betterment of the University and in alignment with the University's mission;

4. The KWU Board of Trustees Chair is invited to attend each regular meeting of the KWU Foundation Board, providing regular updates from the KWU Board of Trustees as a liaison between the two boards;
5. The KWU Foundation Board Chair is invited to attend each regular meeting of the KWU Board of Trustees, providing regular updates from the KWU Foundation as a liaison between the two boards; and
6. Upon termination of service as a board chair, service of the other KWU Board as the ex-officio representative member also terminates.

ARTICLE V: MANAGEMENT

Management of the business and affairs of the Foundation shall be vested in and conducted by its members, the Executive Committee and its officers, and the Foundation 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. This agreement is subject to review and approval by the Foundation Board each year at the Annual Meeting.

ARTICLE VI: MEMBERS

- 6.1 Number** Management of the Foundation shall be vested in membership consisting of a maximum of (12) persons with an established minimum of seven (7) persons not including ex-officio members.
- 6.1.1** The Chairperson of the University Board of Trustees, the President of Kansas Wesleyan University, the Foundation Administrator, the Kansas Wesleyan University Chief Financial Officer, and Secretary shall serve ex-officio.
- 6.1.2** Other than the ex-officio members, the members shall be elected by the Foundation Board.
- 6.2 Qualification** Members 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. Members shall be deemed qualified as such when an acceptance of office has been communicated in writing to the Board Secretary.
- 6.3 Term** Members, except for the four executives who shall serve ex-officio, shall serve terms of four (4) years. A member may serve successive terms if elected, not to exceed two (2) successive full terms.
- 6.3.1** 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.

6.3.2 Any vacancy among the officers may be filled at any duly constituted meeting of the Board upon nominations.

6.3.3 Upon the need for member termination, removal may occur by majority vote of the Foundation members.

6.4 Duties The members shall govern and manage all affairs of the Foundation in accordance with Federal and State laws, and its decisions in annual, regular, and special meetings.

The members of the Foundation shall provide the private, philanthropic resources necessary for the support of its constituencies' programs and activities, both current and long-term. The members shall be charged with the following duties:

1. Assist with providing names of prospects for planned giving and with follow-up to inquiries regarding planned giving.
2. Actively engage with the development of a comprehensive, long-term fundraising strategy designed to meet the resource needs of the Foundation and its constituencies, and to establish and oversee any policy issues related to resource development for the Foundation and its constituencies;
3. Work with the Foundation Administrator and the University's development staff to establish fundraising goals, plans and benchmarking activities, and assist development staff in the identification, cultivation, and solicitation of supporters, as appropriate and assist the staff in increasing the recognition and visibility of the Foundation; and
4. Educate fellow members about the Foundation's programmatic and activity priorities and resources needed, familiarize fellow Board members with fundraising skills and techniques for their active engagement in resource development activities and serve as the Foundation's resource for general information related to fundraising, such as the current fundraising climate, trends in development, etc.

6.5 Resignation Any member or officer of the Foundation may resign upon filing a written resignation with the Chair and/or 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 Foundation Board shall be filled by the entity that appointed the member position that is now vacant, and any member so chosen to fill vacancies shall hold office until the next annual meeting of the members unless sooner displaced, or until their term of office is terminated by resignation, death, or disability.

ARTICLE VII MEETING OF MEMBERS

7.1 Place All meetings of the Foundation members shall be held at the principal place of business in this State, or at such places as may be designated by the Board members, within the State of Kansas.

7.2 Meeting Times

7.2.1 Annual. The annual meeting of the members of this Foundation shall be held each year as set by vote of the Foundation members for the purpose of: (i) election of members; (ii) election of officers; and (iii) 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 action of the Board members.

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

7.2.4 Telephone or Electronic Communication. Foundation members, or any committee thereof, may participate in a meeting of such Board or committee by utilizing telephone or video conference or similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall be present 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 (mailing or KWU email) shown on the records of the Foundation at least five business days prior to the scheduled meeting.

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 stated 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 or permitted to be taken at any annual or special meetings of the members may be taken by consent without a

meeting, without prior notice, and by means of electronic vote. The result of any such vote must be officially reported to the next meeting of the Board and recorded in the minutes of record for that meeting.

7.4 Pre-agenda A written agenda of matters to be considered insofar as reasonably ascertainable should be communicated in advance of any meeting, except in instances when telephone or electronic communication methods are used to conduct a meeting.

7.5 Quorum A majority of the total voting members shall constitute a quorum (60% or more of voting members) at all meetings of the members for the transactions of business except as otherwise provided by law, or by these Bylaws. Such a number may either be personally present or represented by proxy. In the event such number is not a 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 the Foundation to one vote in person or by proxy, but no proxy shall be voted except as specifically giving for a scheduled meeting or any adjournment thereof for lack of quorum. Any proxy vote must be submitted to the KWU Foundation Board Chair and or Secretary no later than one (1) business day before the scheduled vote.

7.7 Voting Procedure All elections of the members and officers vote upon any other questions, except as otherwise provided by law or unless otherwise provided by resolution of the Board, may be had by ballot, by voice, or by showing of hands unless a member, at least five (5) business days before the date of any meeting for the election of members, 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 elected by the Board members and shall be a Chairperson, a Vice Chair, a Treasurer, and a Secretary. The Secretary may or may not be a member. The Kansas Wesleyan University Chief Financial Officer will serve ex-officio as Treasurer.

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, and for such terms as the Board may determine.

8.3 Term and Qualifications of Officers

The officers of the Foundation shall hold their office for two (2) years or until their successors are chosen and qualified, or unless their respective terms of office have been terminated by resignation in writing, duly filed in the office of the Chair and/or Secretary. Upon end of Board officer term, member must take one (1) year off from said position before re-election to same office.

8.4 Removal of Officers

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

8.5 Chairperson

The Chairperson shall preside at all meetings of the Board when present, shall perform such other duties as may be prescribed in these Bylaws or assigned by the Board, and shall coordinate the work of the officers and committees of the Board so that the purposes of the Foundation may be promoted.

8.6 Vice Chairperson

The Vice Chairperson shall assist the Chairperson as directed by the Chairperson, in the absence or inability of that officer to act, to perform the duties and exercise the powers of the Chairperson, and shall perform such other duties as the Board may prescribe.

8.7 Secretary

The Secretary may or may not be a member. A KWU staff member serving ex-officio, may be assigned by the Foundation Administrator to be the Secretary and is also subject to election by Board vote to service in this officer role.

8.7.1

The Secretary shall attend all sessions of the Foundation Board and record all votes and the minutes of all proceedings, including rules and regulations and policy decisions, in a digital file 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 and shall perform such other duties as may be prescribed by the Board members or Chairperson.

8.8 Treasurer

The Treasurer will be the Kansas Wesleyan University Chief Financial Officer and serve ex-officio. The Treasurer shall have such duties as may be prescribed by the Board and, upon requirement of the Board, shall give bond in such sum, and with such sureties, as may be determined from time to time by the members of the Board. 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 Board members.
- 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 Board members, the Treasurer shall file a complete report of the financial operations of the Foundation at the principal office. A copy of said statement shall be emailed or otherwise delivered to each member 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 other such duties as may be assigned from time to time by the Chair of the Foundation.

ARTICLE IX: COMMITTEES

The Foundation may by resolution or resolutions pass by a majority vote of the whole board, designate one or more committees of officers, members, and/or interested persons to act in an advisory capacity to the whole board. Such committee or committees shall have such name(s) as may be determined from time to time by resolution adopted by the Board. Current Foundation Board standing committees are the (1) Executive Committee, (2) Finance and Investment, (3) Audit Committee, and (4) Governance and Nominating Committee.

9.1 Executive Committee

- 9.1.1 Membership of Executive Committee.** The Foundation members shall appoint from their number an Executive Committee of not less than four members who shall include the Chair, Vice Chair, Chair of Finance and Investment Committee, Chair of Audit Committee, and Chair of Governance and Nominating Committee. The Foundation Administrator, Treasurer and Secretary (if KWU staff member) shall serve ex-officio without a vote.
- 9.1.2 Ad Interim Powers** Unless the Board specifically directs otherwise, during the intervals between meetings of the Board, the Executive Committee shall have, and may exercise, all the powers of the Board in the management of the business and affairs of the Foundation at such time as the Foundation is not in session, in the manner such committee shall deem in the best interests of the Foundation.

9.2 Standing Committees

Other than the Executive Committee, Foundation membership for the Board's standing committees is recommended by the Governance and Nominating Committee and elected annually by the full Foundation Board. Chairpersons for standing committees are appointed by the Foundation Board Chair. The Foundation Chair may not serve in standing committees, but the Vice Chair is encouraged to do so. Ex-officio members will not count in the total number of committee members or toward a quorum. Any member of any committee may be removed from such committee by the Executive Committee at any time, with or without cause.

9.2.1 Audit Committee. The Foundation Board shall elect an Audit Committee of not less than three (3) members, nor no more than half of total Foundation membership. The Treasurer/CFO and the Foundation Administrator shall serve ex-officio as non-voting members of the Audit Committee. The Audit Committee shall be charged with the following duties:

1. Provide oversight for the audit of funds of the Foundation, by reviewing and recommending for approval, the fiduciary documents for the Foundation. The draft audit and the IRS Form 990 are vetted on behalf of the larger Foundation body on an annual basis;
2. Ensure that an annual outside auditor has been secured by the University Board of Trustees; and
3. Provide oversight of accounting methods and procedures and the furnishing of financial statements to minimize risk and establish a measure of confidence that the Foundation's financial matters are appropriately and prudently addressed and in compliance with relevant laws, standards, and practices.

9.2.2 Finance and Investment Committee. The Foundation Board shall elect a Finance and Investment Committee of no less than three (3) members nor no more than half of total Foundation membership. The Chairperson, Treasurer, and the Foundation Administrator shall serve ex-officio without vote. The Finance and Investment Committee shall be charged with the following duties:

1. Manage the Foundation's assets, in accordance with the investment policy, to preserve the purchasing power of the endowment and provide a growing income stream to the University;
2. Provide high-level input on investment strategy and philosophy to the Foundation;
3. Review the recommend for approval by the Board, investment policies and guidelines including investment objectives and long-term asset allocation targets;
4. Review current money managers and vet potential new investment managers;
5. Review all fees incurred by or on behalf of the Portfolio for reasonableness;

6. Recommend funds of the Foundation to be deposited in such banks and other depositories for checking and savings as determined by resolution of the Foundation Board 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; and
7. The duties listed above shall be presented to the full Foundation Board for approval.

9.2.3

Governance and Nominating Committee. The Foundation Board shall elect a Governance and Nominating Committee of not less than three (3) members nor no more than half of the total Foundation membership for the purpose of providing the Board with the resources that permit the Board to exercise its responsibilities for Foundation governance at the highest level of excellence. It is recommended for the Vice Chairperson be a member of this committee. The Governance and Nominating Committee shall have the following duties:

1. Determine the most effective composition of the Board;
2. Attract and recruit Board members, implementing a robust orientation and ongoing Board development, and assessment programs;
3. Recommend to the full Foundation Board nominees for members and officers of the Foundation;
4. Review practices and recommend to the Board as necessary those strategies and policies required to fulfill the committee's responsibilities;
5. Acknowledge the Bylaws by serving as the conscience of the Board to continually judge whether the Foundation's Bylaws fairly and accurately reflect current Board practices; and
6. Upon needed changes to the Bylaws, the Governance and Nominating Committee shall review and update the full Board of such changes.

9.3 Other Committees

The Chairperson, with the approval of the Executive Committee, may appoint a temporary task force 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.

9.4 Rules: Committee Quorum; Ex-officio

All Foundation Board standing committees, unless otherwise provided in these Bylaws or by direction of the Foundation Board from time to time, shall adopt their own rules of procedure (following the current Robert's Rules of Order). At all meetings of committees, a majority shall constitute a quorum (60% or more of total voting members), and the affirmative vote of a majority of a quorum shall control the transaction of business.

ARTICLE X: FINANCES

10.1 Fiscal Year The fiscal year of the Foundation is from July 1 through June 30.

10.2 Financial Records

The Treasurer or designee must keep clear and organized financial records and accounts that are consistent with proper accounting practices. Unless the Board instructs otherwise, this individual submits annual financial report to the Board members and other such intermediate financial reports that the Board may direct.

10.3 Disbursement

The full Board makes recommendations to the Chair and Treasurer for disbursement from the respective funds of the Foundation upon the order and approval of the administrators of those funds consistent with the terms and conditions governing them. Disbursements are from the funds of the Foundation for the general use of the University consistent with the terms and conditions stipulated by the Board. The Executive Committee may draw upon and access the appropriate funds of the Foundation for the payment of ordinary and necessary operating expenses of the Foundation following the written policies adopted by the Foundation Board.

10.4 Auditing of Accounts

The accounts of the Foundation or other entities must be audited and examined each year with regular reports made to the Kansas Wesleyan University Board of Trustees and the members of Kansas Wesleyan University Foundation Board. Both Boards are to take action on the proposed prior fiscal year's audit by the end of the calendar year (December 31).

ARTICLE XI OPERATIONS

11.1 Administrator

To provide the management and administrative services needed by the Foundation to conduct its activities and to have the Foundation share the costs and expenses incurred by the KWU Administrator, an annual agreement is executed between Kansas Wesleyan University and the Kansas Wesleyan University Foundation.

11.2 Operations The Foundation Board and its work shall be operated as follows:

11.2.1 Agenda. The Foundation Chair shall work with the Foundation Administrator to prepare and approve an agenda in advance of each meeting.

11.2.2 Presiding. The Foundation Chair shall preside at all meetings. At the request of or in the absence of the Chair, the Vice Chair shall preside at meetings and otherwise fulfil the duties and obligations of the Chair.

11.2.3 Minutes. The Foundation will cause to be kept adequate minutes of proceedings, and shall present any findings, actions taken, activities or recommendations to the Executive Committee and the Board. Minutes shall be filed with the Foundation records. Foundation members will be furnished with copies of the minutes of each meeting and any action taken.

11.2.4 Meetings. Following the approved Bylaws, the Foundation will be governed by the same rules regarding meetings (including meetings conducted electronically), action without meetings, notice, waiver of notice and quorum and voting requirements as apply to the Board. The Foundation is authorized and empowered to adopt its own rules of procedure not inconsistent with (i) any provision hereof, (ii) any provision of the Bylaws of the Foundation, (iii) the laws of the State of Kansas, or (iv) the current edition of the Roberts Rule of Order.

11.2.5 Quorum. A quorum shall consist of a majority (60% or greater of the total Foundation membership) of the members who are entitled to vote.

11.2.6 All standing committee chairs or designee shall follow the same practice as listed above.

11.3 Executive of Documents

11.3.1 Checks, Notes, Etc. The Foundation Board from time to time, shall designate officers or agents of the Corporation, who shall have power in its name, to sign and endorse checks and other negotiable instruments, and to borrow money for the Corporation, and in its name, to make notes or other instruments of indebtedness.

11.3.2 Other Documents. Unless otherwise authorized by Board members, all contracts, leases, deeds of trust, mortgages, and all other documents requiring the seal of the Corporation, shall be executed for and on behalf of the Chair or Vice Chair, with the Corporate seal affixed, and all of which attested to by the Secretary.

11.4 Parliamentary Authority

The Parliamentary Authority of this Foundation shall be the most recent edition of the Robert Rules of Order.

11.5 Electronic Communication

Any electronic messages concerning the Kansas Wesleyan University Foundation Board (particularly Board information or documents, etc) will only be implemented using the Kansas Wesleyan University email address assigned to each Foundation member. This provides the necessary extra level of cyber security protection by using the University's server firewalls and security protocols. Digital files are shared by way of the KWU Foundation Teams (Microsoft Office) folder all members have access to.

ARTICLE XII: CONFLICTS OF INTEREST

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

1. The material facts as to their relationship or interest and as to the contract or transaction are disclosed or are known to the Board members 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 members even though the disinterested members be less than a quorum; or
2. The contract or transaction is fair to the Foundation as of the time it is authorized, approved, or ratified by the Board members or a committee thereof duly authorized; and
3. Any member with a conflict of interest shall abstain from voting on the issue.

ARTICLE XIII INDEMNIFICATION; INSURANCE

13.1 Indemnification

- 13.1.1 Indemnity.** This Foundation shall indemnify any member, 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 their actions were in or not opposed to the best interest of the Foundation.
- 13.1.2 Standard of Conduct.** The indemnity provided by this Article shall only be available to persons who acted in good faith and in a manner, they are reasonably believed to be in or not opposed to, the best interest of the Foundation. If a criminal matter, such a person must have had no reasonable cause to believe their conduct was unlawful.
- 13.1.3 Determination.** Any indemnification under this Article (unless ordered by a court) shall be made by the Foundation only as authorized in the specific case as proper under the circumstances because the Indemnified Party is determined to have met the applicable standard of conduct outlined in this Article. Such determination shall be made by (i) by the Foundation Board members by a majority vote of a quorum consisting of members who were not parties to the related claim, proceeding, or investigation, or (ii) if such a quorum is not obtainable, or even if obtainable if a quorum of disinterested Board members so directs, by independent legal counsel in a written opinion.

13.1.4 Expenses. Expenses incurred in defending a civil or criminal claim, action, proceeding, or investigation may be paid by the Foundation in advance of the final disposition of such claim, action, proceeding, or investigation, as authorized by the Foundation Board members in the specific case, upon receipt of an undertaking by or on behalf of the Indemnified Party to repay such amount unless it shall ultimately be determined that they are entitled to be indemnified by the corporation as authorized in this Article.

13.1.5 Insurance. The Foundation may purchase and maintain insurance on behalf of any member, 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 the power to indemnify such a person against such liability under the provisions of the above section.

ARTICLE XIV: DISSOLUTION OF FOUNDATION

14.1 Assets Upon Dissolution.

Upon dissolution of the Foundation, the Board members shall after paying or making provision for the payment of all 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 Foundation members unless such instruction are contrary to law;
2. All other assets of the Foundation should pass exclusively to and for the benefit of Kansas Wesleyan University, 100 E. Claflin Avenue, Salina, KS 67401, 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 Foundation Board, 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; and
4. Any assets not disposed of pursuant to the foregoing priorities shall be disposed of 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.

ARTICLE XVII: AMENDMENTS

These Bylaws and the Articles of Incorporation may be altered, repealed, or amended by a majority of all members of the Foundation Board and otherwise according to the provisions of the Kansas Corporation Code, 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 the proper authorities.

RECORD OF ADOPTION AND AMENDMENTS

These Bylaws were adopted by the Kansas Wesleyan University Foundation Board members at the following regular meetings 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

Date: May 4, 2023
Chair: Bob Meyer

Date: April 20, 2024
Chair: Bob Meyer