

BYLAWS

of the

ARMY WAR COLLEGE FOUNDATION, INC.

(Amended and Restated September 9, 2020)

ARTICLE 1 GENERAL

1.1 Purposes. The purposes of the Army War College Foundation, Inc. (hereafter referred to as “the Foundation”) as set forth in the Articles of Incorporation are to engage in charitable and educational endeavors solely for the benefit of the U.S. Army War College and its respective purposes and programs, and to foster fraternity among alumni and constituents of the U.S. Army War College. In furtherance thereof, the Foundation shall have all rights and powers available under the Nonprofit Corporation Law of 1988 of the Commonwealth of Pennsylvania (“NPL”).

1.2 Prohibited Activities. In pursuing such purposes, the Foundation shall not act so as to impair its eligibility for exemption under Section 501(c)(3) of the Internal Revenue Code or the provisions of the NPL. No part of the net earnings of the Foundation shall inure to the benefit of any individual and no trustee, officer, or employee of the Foundation shall receive any pecuniary benefits of any kind except as reasonable compensation for services in effecting the Foundation’s purposes. 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 or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

1.3 Equal Opportunity. The Foundation is an equal opportunity organization and abides by all government regulations concerning equal opportunity and non-discrimination.

1.4 Disposition of Assets on Dissolution or Liquidation. In the event of the dissolution or final liquidation of the Foundation, any and all of its assets which remain after payment and/or satisfaction of all proper claims and demands then existing against the Foundation shall be distributed to the Secretary of the Army to be supplied for the support of the U.S. Army War College.

ARTICLE 2 OFFICES

The principal and registered office of the Foundation shall be at Carlisle Barracks, Pennsylvania, until otherwise determined by the Board of Trustees (hereinafter referred

to as “the Board”). The Foundation may also have offices at such other places as the Board may select and the business of the Foundation shall require.

ARTICLE 3 CONSTITUENCIES

Constituency in the Foundation is open to individuals, corporations, foundations, and other organizations interested in the purposes for which the Foundation was incorporated. The Foundation may establish classes of constituencies, such as "associate," "contributing," "sustaining," "life," “annual,” "corporate," "Fellow," etc., to encourage and recognize contributions to and support of the objectives of the Foundation in a variety of ways. Constituency does not include legal or voting rights on any issue.

ARTICLE 4 BOARD OF TRUSTEES

4.1 Powers. The business, property, funds, and affairs of the Foundation shall be vested in the Board, except as otherwise required by the NPL, these Bylaws, or a resolution duly adopted by the Board. Members of the Board with voting authority shall serve without compensation for their services as trustees or officers.

4.2 Number and Qualifications of Trustees. The Board shall consist of not less than twelve (12) nor more than twenty-four (24) voting persons. Each trustee shall be an individual of at least 18 years of age, who need not be a resident of Pennsylvania. The Board will maintain a list of desired qualifications and traits for trustee service and will make a good faith effort to include as many different categories of constituents as possible when selecting trustees. In the event that the Board approves a third term for one or more trustees as provided in Section 4.4 of these Bylaws, the maximum number of voting persons specified in this Section 4.2 that may constitute the Board shall be increased automatically by the number of such trustees then serving a third term.

4.3 Independence and Prevention of Conflicts of Interest. The Board must ensure that its members are “independent” at the time of election and throughout their service to the Foundation. For a trustee to be considered independent, he or she must have no direct or indirect material relationship with the U.S. Army War College or the Foundation, being a relationship that could, in the view of the Board, reasonably interfere with the exercise of a trustee’s independent judgment. Potential trustees, and serving trustees at least annually, will complete a detailed questionnaire regarding real or perceived areas of conflicts of interest so that any apparent issues can be avoided or resolved expeditiously. Conflict of interest shall include, but not be limited to, any transaction by or with the Foundation in which a trustee has a direct or indirect personal interest, or any transaction in which a trustee is unable to exercise impartial judgment or otherwise act in the best interests of the Foundation. In the event that any trustee has a conflict of interest that might properly limit his or her fair and impartial participation in Board deliberations or decisions, such trustee shall inform the Board as to the circumstances of such conflict. If

those circumstances require the non-participation of the affected trustee, the Board may nonetheless request from the trustee any appropriate non-confidential information which might inform its decisions. The minutes of the Board meeting shall reflect disclosure of any conflict of interest and the recusal of the interested trustee.

4.4 Election of Trustees and Terms. Trustees shall be elected by the then-serving Board with the affirmative vote of a majority of trustees entitled to vote at a meeting of the Board where a quorum exists. Elections are normally held at regular meetings of the Board, but can be held at any time as determined necessary by the Board. Upon their election, unless otherwise specified at the time of election, trustees are voting members of the Board and assume all duties and responsibilities of a trustee effective at the first annual meeting following their election for a term of three (3) years from that annual meeting. In the case of the election of a trustee with a specified start to his or her term prior to the first annual meeting following his or her election, the term of service may be more than three (3) years but no more than four (4) years. The Chair, in consultation with the Executive Committee, may ask a trustee to accept re-nomination for a second term of three (3) years. If a trustee accepts said re-nomination and is re-elected, the trustee continues in office for a second term of no more than three (3) years. Trustees other than the Chair and Vice Chair will not serve more than two (2) consecutive terms, provided, however, that the Chair, in consultation with the Executive Committee, in special circumstances, may re-nominate a trustee for a third consecutive term of no more than two (2) years. Former trustees may be re-elected after a two-year absence from the Board.

4.5 Removal of Trustees. A trustee may be removed from the Board, with or without the assignment of any cause, by the affirmative vote of at least seventy-five percent (75%) of all the voting trustees then in office, provided that written notice of the intention to consider removal of such trustee has been included in the notice of the meeting. No trustee may be removed without having the opportunity to be heard at such meeting, but no formal hearing procedure need be followed.

4.6 Resignation of Trustees. A trustee may resign such position at any time, such resignation to be made in writing and to take effect from the time of its receipt by the Foundation, unless some later time is fixed in the resignation, and then from that date. The acceptance of the resignation by the Board shall not be required to make it effective.

4.7 Evaluation of Trustees. Trustees are expected to continually evaluate their own performance and the composition of the Board in terms of the skills, experience, diversity, and contributions of its members to identify ways it may improve its effectiveness by selection of new trustees and otherwise. The Executive Committee shall coordinate and oversee evaluation of the role and performance of the Board, its committees, and individual trustees at least annually, the purpose of which shall be to ensure the Board is fulfilling its obligations. A trustee's prior performance will be evaluated before his or her nomination for re-election.

4.8 Ex-officio Member of the Board. The President/Chief Executive Officer (CEO) of the Foundation will be included in Board meetings and activities as an ex-officio, non-voting member. He or she shall be an individual employed by the Foundation who is responsible for the day-to-day operations and activities conducted by the Foundation in the normal course of business, subject to the direction of the Chair and the Board.

ARTICLE 5 OFFICERS

5.1 Positions. The officers of the Foundation shall include a Chair, a Vice Chair, a Secretary, and a Treasurer, who shall be elected by the Board from among the voting trustees by the affirmative vote of the majority of trustees entitled to vote at an annual or regular meeting where a quorum exists. Trustees may elect such other officers or assistant officers as they deem appropriate. Officers shall perform such duties as may be assigned to them from time to time by the Board in addition to those set forth in these Bylaws.

5.2 Terms. Unless otherwise directed by the Board at the time of election, officers shall be installed at the meeting at which they are elected and shall hold office for two (2) years or until their respective successors shall have been duly elected and qualified. Officers may be elected for consecutive terms, except as limited by terms for trustees other than the Chair and Vice Chair. The Chair and Vice Chair may continue to serve as long as they are re-elected to their respective offices.

5.3 Duties. The duties of the officers shall include, but are not limited to, the following:

a) Chair. The Chair shall preside at all meetings of the Board and Executive Committee and shall give active direction and exercise oversight pertaining to all affairs of the Foundation. The Chair shall see that all orders and resolutions of the Board are carried into effect. The Chair shall be an ex-officio member of every Foundation committee.

b) Vice Chair. The Vice Chair shall have such powers and perform such duties as the Board of Trustees may prescribe or as the Chair may delegate. In the event of the absence, incapacitation, death, removal, or resignation of the Chair, the Vice Chair shall preside at meetings and act in the stead of the Chair until a successor is elected.

c) Secretary. The Secretary shall assure that appropriate notice is given for all meetings of the Board; shall assure that minutes are prepared and maintained for all meetings of the Board, to include records on all Board resolutions and voting of the Board and its committees; and shall perform such other duties as may be prescribed by the Board or by the Chair.

d) Treasurer. The Treasurer shall assure that accurate accounts of the receipts and disbursements of the Foundation are maintained; shall cause financial reports to be

provided to the Board as requested, but not less than once a year; and shall perform such other duties as may be prescribed by the Board or by the Chair. The Treasurer may be the same individual as the Chair of the Finance and Audit Committee but the position of Treasurer requires election in the same manner as required for the other officer positions.

5.4 Removal of Officers. An officer may be removed from office by the Board whenever in its judgment the best interests of the Foundation will be served thereby. This removal may be directed at any duly constituted meeting by the affirmative vote of at least seventy-five percent (75%) of all the voting trustees then in office. No officer may be removed without having the opportunity to be heard at such meeting, but no formal hearing procedure need be followed. Removal from office is a separate and distinct action from removal from the Board.

5.5 Resignation of Officers. An officer may resign such position at any time, such resignation to be made in writing and to take effect from the time of its receipt by the Foundation, unless some later time is fixed in the resignation, and then from that date. The acceptance of the resignation by the Board shall not be required to make it effective.

5.6 Replacement of Officers. In the event of death, resignation, disqualification, or removal of an officer before the expiration of his or her term of office, or if a vacancy occurs in any office for any reason, the Board may elect a successor who shall hold office for the unexpired term.

ARTICLE 6 MEETINGS AND VOTING

6.1 Annual and Regular Meetings. The annual meeting of the Board shall be held in the Fall of each year at the principal location of the Foundation or at such other time or place as the Board shall determine. Regular meetings of the Board shall be held as determined by the Board.

6.2 Special Meetings. Special meetings of the Board may be called at any time by the Chair or upon written application to the Chair by one-third of the Board at any time. At least fifteen (15) days written notice stating the time, place, and purpose of any special meeting shall be given to the members of the Board.

6.3 Attendance at Meetings. Trustees are expected to attend meetings in person whenever and wherever possible. At the direction of the Chair, meetings may be held by means of a telephone or video conference or similar communications equipment by which all persons participating in the meeting can hear and speak with each other. The Chair, at his or her discretion, may also permit one or more trustees to attend a meeting by means of a telephone or video conference or similar communications equipment.

6.4 Quorum. A majority of the voting trustees then in office (50% plus one) shall be necessary at all meetings to constitute a quorum for the transaction of business at meetings. Less than a quorum may adjourn any meeting to a subsequent date and without

further notice, the meeting may be held on that date provided a quorum then be present. Participation by telephone or video conference or similar communications equipment shall be equivalent to presence in person at a meeting for purposes of determining if a quorum is present.

6.5 Voting. Except as otherwise specifically provided in these Bylaws, every trustee shall be entitled to one vote and the acts of a majority of the voting trustees shall be deemed to be the acts of the Board, provided that a quorum exists. Proxy voting shall not be allowed. The affirmative vote of at least seventy-five percent (75%) of all the voting trustees then in office shall be required to: (i) approve any merger, consolidation, conversion, voluntary dissolution, or reorganization of the Foundation; and (ii) sell, mortgage, lease away, or otherwise dispose of any real property owned by the Foundation.

6.6 Unanimous Consent of Trustees in Lieu of Meeting. Any action which may be taken at a meeting of the Board may be taken without a meeting if a written consent or consents setting forth the action so taken shall be submitted by all of the voting trustees then in office and shall be filed with the Secretary of the Foundation.

ARTICLE 7 COMMITTEES

7.1 Establishment. The Board may establish committees to consist of one or more trustees of the Foundation. Any such committee may exercise any of the powers and authorities to the extent provided in the resolution of the Board forming the committee, except that no committee shall have any power or authority as to the following: a) The election or removal of trustees or officers; b) The adoption, amendment, or repeal of the Articles of Incorporation or Bylaws; c) The amendment or repeal of any resolution of the Board; or d) Action on matters committed by the Bylaws or by resolution of the Board to another committee of the Board.

7.2 Appointment to Committees. Unless otherwise determined by the Board or set out in these Bylaws, in consultation with the Executive Committee, the Chair shall have the power to appoint and remove members and chairs of all committees.

7.3 Executive Committee. The Executive Committee of the Board shall consist of the Chair, the Vice Chair, the Secretary, the Treasurer, and, at the discretion of the Chair, up to four (4) but no less than two (2) additional members of the Board. The Executive Committee shall be responsible for the direction and oversight of corporate governance and stewardship, and will promulgate guidelines to promote the effective functioning of the Board. The Executive Committee will maintain a Governance Charter describing its key responsibilities, and will, from time to time but at least annually, review, report, and reconcile those responsibilities to and with the entire Board. In its governance role, the Executive Committee performs the duties of a Compensation Committee to coordinate and conduct annual President/CEO performance, salary, and benefits review. The

Executive Committee will meet at the call of the Chair, and such meetings may be conducted in person or by telephone or video conference or other method as determined by the Chair. The Executive Committee shall have the powers and duties of the Board between the regular meetings of the Board to the extent allowed by Pennsylvania law, subject to the rights of all members of the Board to make written application for a special meeting of the Board or to restrict specific transactions, provided, however, that the Executive Committee shall not have power or authority to: (i) approve or modify the Foundation's budget; (ii) approve or modify investment policies; or (iii) terminate the employment of the President/CEO. A majority of the serving members of the Executive Committee shall be necessary at all meetings of the Executive Committee to constitute a quorum for the transaction of business. The Executive Committee shall promptly notify the entire Board regarding matters it transacts that impact or are of interest to the entire Board.

7.4 Other Committees. The following are considered "standing committees" of the Foundation. However, the Board may establish such other committees, or modify these committees, as it shall from time to time, consider appropriate:

a) Finance and Audit Committee. The Chair shall appoint a Finance and Audit Committee to consist of such number of trustees as the Chair may determine advisable, to have such duties and perform such functions as the Chair, with the consent of the Board, may deem appropriate. The Committee will recommend to the Board an operating budget for each Fiscal Year and will review the independent annual audit and tax documents prior to final consideration by the Executive Committee on behalf of the Board. The Committee will ensure each member of the Board is provided a copy of those documents and any others as deemed necessary.

b) Investment Committee. The Chair shall appoint an Investment Committee to consist of such number of trustees as the Chair may determine advisable, to develop investment policies for Board approval, to monitor and oversee all investments, and to report to the Board at meetings or as requested by the Board, regarding the status of investments pertaining to the Foundation.

c) Nominating Committee. The Chair shall appoint a Nominating Committee to consist of such number of trustees as the Chair may determine advisable, at least one of whom is an alum of the U.S. Army War College. The Committee shall recommend candidates for vacancies to the Board incident to the expiration of term of office or for any other reason. The Chair shall review the recommendations of the Committee and forward such recommendations to the Board for its consideration. Any trustee may submit the name of an individual for consideration for office. The Nominating Committee shall not be limited to considering only those names submitted.

d) Alumni Affairs Committee. The Chair shall appoint an Alumni Affairs Committee to consist of such number of trustees as the Chair may determine advisable, at least one of whom is an alum of the U.S. Army War College. The Committee shall advise the Board on any Alumni issues and report to the Board at meetings or as

requested by the Board. The Committee is responsible for the Outstanding Alumni Program.

e) Development Committee. The Chair shall appoint a Development Committee to consist of such number of trustees as the Chair may determine advisable, to develop and oversee fundraising strategies and to advise and report to the Board at meetings or as requested by the Board, regarding fundraising and advancement issues pertaining to the Foundation.

f) Legal and Bylaws Committee. The Chair shall appoint a Legal and Bylaws Committee to consist of such number of trustees as the Chair may determine advisable, to advise the Board on any legal and bylaws issues pertaining to the Foundation and to report to the Board at meetings or as requested by the Board, regarding those legal and bylaws issues pertaining to the Foundation.

ARTICLE 8 INDEMNIFICATION

8.1 Indemnification. The Foundation shall, to the extent legally permissible, indemnify each person who may serve or who has served at any time as a trustee, officer, employee, or representative of the Foundation against all expenses and liabilities, including counsel fees, judgments, fines, penalties, and settlement payments, reasonably incurred by or imposed upon such person in connection with any threatened, pending, or completed action, suit, or proceeding (hereinafter “proceeding”) in which he or she may become involved by reason of his or her service in such capacity; provided that no indemnification shall be provided for any such person with respect to any matter as to which he or she shall have been found in any proceeding not to have acted in good faith in the reasonable belief that such action was in, or not opposed to, the best interests of the Foundation, or in any matter in which he or she breached or failed to perform duties in accordance with published standards of conduct or fiduciary duty, or with regard to any criminal proceeding, had no reasonable cause to believe his or her conduct was lawful. This indemnification provision shall not be provided for any person found in any proceeding to have acted in matters constituting self-dealing, willful misconduct, or recklessness. This indemnification provision shall also not apply to the responsibility or liability of a trustee, officer, employee, or representative pursuant to any criminal statute or their liability for the payment of taxes pursuant to local, state, or federal law. The termination of any action or proceeding by judgment, order, settlement or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith and in a manner that such person reasonably believed to be in, or not opposed to, the best interests of the corporation and, with respect to any criminal proceeding, had reasonable cause to believe that his or her conduct was unlawful.

8.2 Procedure. Unless ordered by a court, any indemnification under this Article or otherwise permitted by law shall be made by the Foundation only as authorized in the specific case upon a determination that indemnification is proper in the circumstances

because the trustee, officer, employee, or representative of the Foundation has met the applicable standard of conduct set forth under this Article or other applicable law. Such determination shall be made by the Board by a majority vote of a quorum consisting of trustees who were not parties to the action or proceeding; or if such a quorum is not obtainable or if obtainable and a majority vote of a quorum of disinterested trustees so directs, by independent legal counsel in a written opinion. Notwithstanding the foregoing, to the extent that a representative of the Foundation has been successful on the merits or otherwise in defense of any action or proceeding of the type referenced in 15 PA C.S.A. § 5741 (relating to third-party actions) or § 5742 (relating to derivative and corporate actions), or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

8.3 Advancement of Expenses. The Foundation shall advance expenses (including attorneys' fees) incurred by an officer, trustee, employee, or representative who may be eligible for indemnification pursuant to this Article in defending a proceeding unless such proceeding is brought against the person by or in the right of the Foundation, and may advance such expenses in any case in which it decides indemnification may be appropriate, in advance of the final disposition of such proceeding, upon receipt of an undertaking by or on behalf of such person to repay the amount so advanced if it shall ultimately be determined that such person is not entitled to be indemnified by the Foundation.

8.4 Continuing Right to Indemnification. The indemnification and advancement of expenses provided pursuant to this Article shall continue as to any person who has ceased to be an officer, trustee, employee, or representative of the Foundation and shall inure to the benefit of the heirs, executors, and administrators of such person.

8.5 Other Rights. This Article shall not be exclusive of any other right which the Foundation may have to indemnify any person as a matter of law. The Foundation shall have the power to purchase and maintain insurance on behalf of any person entitled to the protections of this Article 8.

ARTICLE 9 AMENDMENTS

9.1 Bylaws. The Bylaws may be amended by the affirmative vote of at least seventy-five percent (75%) of all voting trustees then in office at any duly convened meeting of the Board after not less than thirty (30) days written notice of such purpose has been given, including a copy of the proposed amendment or a summary of the changes to be effected thereby.

9.2 Articles of Incorporation. The Articles of Incorporation of the Foundation may be amended by an affirmative vote of at least seventy-five percent (75%) of all voting trustees then in office at any duly convened meeting of the trustees after not less than thirty (30) days written notice of such purpose has been given, including a copy of the proposed amendment or a summary of the changes to be effected thereby.

ARTICLE 10 MISCELLANEOUS

- 10.1 Headings. In interpreting these Bylaws, headings shall not be controlling.
- 10.2 Fiscal Year. The fiscal year of the Foundation shall begin on the first day of August and end on the last day of the subsequent July. The accounts of the Foundation shall be audited at least annually in such manner as the Board may direct.
- 10.3 Faculty Liaisons. The Commandant of the U.S. Army War College may be requested to appoint from its faculty two liaisons to the Board for the purpose of advising the Chair and the Vice Chair on matters related to the purpose of the Foundation in its endeavors to further the traditions and capabilities of the U.S. Army War College and its purposes and programs. Liaisons are appointed and serve at the discretion of the Commandant, for periods that normally begin at the commencement of an academic year in August, and conclude after three years at the close of an academic year in July.
- 10.4 Policies. The Board shall adopt policies dealing with conflicts of interest, whistleblower protection, document retention and destruction, and such other matters as the Board determines to be appropriate.
- 10.5 Notice. Whenever notice is required to be given to any person, it shall be given to such person either personally or by sending a copy thereof by first class or express mail, postage prepaid, or courier service, charges prepaid, to the person's address appearing on the books of the Foundation, or in the case of trustees, supplied by that person to the Foundation for the purpose of notice, by facsimile transmission, e-mail, or other electronic communication. Notice by mail or courier shall be deemed to have been given when deposited in the U.S. mail or with a courier service for delivery. Notice by facsimile, email, or other electronic communication shall be deemed to have been given when sent. Such notice shall specify the day, hour, and geographic location, if any, of a meeting and any other information which may be required by the Nonprofit Corporation Law of the Commonwealth of Pennsylvania or these Bylaws.
- 10.6 Waiver of Notice. Any required notice may be waived by written consent of the person entitled to such notice either before or after the time for giving of notice, and attendance of a person at any meeting shall constitute a waiver of notice of such meeting, except where a person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.
- 10.7 Record Form and Signatures. Whenever a written document or written action is required, it shall be sufficient if such document is provided or action is taken in Record Form. "Record Form" means inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form. Whenever these Bylaws require a signature or a signed document, it shall be sufficient if the person signing acts with present intent to authenticate or adopt information in Record Form and either (1)

manually signs or adopts a tangible symbol, or (2) attaches to, or logically associates with, information in Record Form an electronic sound, symbol, or process.

10.8 Bonding. If requested by the Board, any person entrusted with the handling of funds or valuable property of the Foundation shall furnish, at the expense of the Foundation, a fidelity bond approved by the Board.

10.9 Subventions. The Foundation shall be authorized, by resolution of the trustees, to accept subventions on terms and conditions not inconsistent with the Nonprofit Corporation Law of the Commonwealth of Pennsylvania.

10.10 Corporate Seal. The corporate seal of the Foundation shall be in circular form and shall bear the name of the Foundation and the words "Corporate Seal, Pennsylvania 1977."