

**BYLAWS
OF THE
NEW CANEY ISD EDUCATION FOUNDATION**

These bylaws govern the affairs of the NEW CANEY ISD EDUCATION FOUNDATION, INC., (the "Corporation"), a nonprofit Corporation organized under the Texas Non-Profit Corporation Act. The name of the Corporation, its corporate purpose, and the terms of its existence are set forth in the Certificate of Formation filed with the Secretary of State of Texas, as the same may from time to time be amended. These Bylaws are subject to the provisions of the Certificate of Formation.

**ARTICLE I
OFFICES, CORPORATE SEAL**

Section 1.01. **Registered Office.** The registered office of the Corporation in Texas shall be the set forth in the Certificate of Formation, or in a resolution of the Directors filed with the Secretary of State changing the registered office.

Section 1.02. **Other Offices.** The Corporation may have such other offices, within the State of Texas, as the Directors shall from time to time determine.

**ARTICLE II
BOARD OF DIRECTORS**

Section 2.01. **Members.** The corporation shall have no members. All corporate actions shall be approved by the Board of Directors as provided in these Bylaws. All rights which would otherwise rest in the members shall rest in the Directors.

Section 2.02. **General Powers.** The property, affairs and business of the Corporation shall be managed by the Directors.

Section 2.03. **Property.** No Director shall have any right, title or interest in or to the property of the Corporation.

Section 2.04. **Number, Qualification and Term of Office.** The number of Directors will have no minimum but is not to exceed 17 persons; however, the number of voting Directors may be increased or decreased to any odd number, by amendment of these Bylaws. Directors to serve until the first annual meeting shall be elected by the initial Directors named in the Certificate of Formation. Thereafter, all Directors shall be elected by those remaining duly qualified Directors. The Superintendent of Schools of the New Caney Independent School District Board of Trustees shall hold permanent official seat with vote. These two Directors shall be known as permanent Directors. All other Directors shall be known as elected Directors. Each elected Director shall hold

office until the annual meeting three (3) years following his or her election and until a successor is elected, or until his or her death, or until resignation, or until he or she is removed in the manner hereinafter provided. Each permanent Director shall hold office until his or her designated position with the School District is changed. The initial elected Directors shall draw lots for initial terms of office. The term of office for approximately one-third of the elected Directors shall expire each year. Elected Directors may be re-elected to successive terms. Persons, including representative and directors of banks or trust companies who serve as investment advisors, custodians, or agents for or with respect to fund of or held for the benefit of this Corporation, shall never constitute more than one-half of the Directors of this Corporation.

Section 2.05. Resignation. Any Director of the Corporation may resign at any time by giving written notice to the President or to the Secretary of the Corporation. The resignation of any Director shall take effect at the time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 2.06. Vacancies. Any vacancy in the position of an elected Director caused by death, resignation, disqualification, removal, or any other cause, shall be filled by a majority vote of the Board of Directors and the Director so elected shall hold office for the remaining term of the Directorship and until his or her successor shall be duly elected and qualified by the remaining Directors. Any vacancy in the position of a permanent Director as noted in Section 2.04 shall be filled by the same person filling the school district position.

Section 2.07. Place of Meeting. The Board of Directors may hold its meetings at such place or places, within the State of Texas, as it may choose.

Section 2.08. Annual Meeting. As soon as practical and not more than sixty (60) days after the beginning of a new fiscal year, the annual meeting of the Corporation shall be held for the purpose of election of officers of the Corporation and any other business or transactions as shall come before the meeting. Notice of the annual meeting shall be given in writing by the Secretary to all Directors not less than ten (10) days prior to the meeting.

Section 2.09. Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and place, within the State of Texas, as the Board may determine by resolution adopted by a majority of the members of the Board of Directors. Notice of regular meetings shall be given by the Secretary not less than five (5) days prior to the meeting.

Section 2.10. Special Meetings Notice. Special meetings of the Board of Directors shall be held whenever called by the President or by 25% of the Directors.

Notice of each such special meeting shall be mailed to each Director, addressed to the Director at his or her residence or usual place of business, at least five (5) days before the day on which the meeting is to be held, or to be delivered personally or by telephone, no later than two (2) days before the day on which the meeting is to be held, except as otherwise provided by these Bylaws. Each such notice shall state the time, place, and purpose of the meeting. Any meeting of the Board shall be a legal meeting without any notice thereof having been given, if all of the Directors of the Corporation then in office shall be present thereat (except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened) or waive such notice in writing before, at, or after such meeting.

Section 2.11. Quorum and Manner of Acting. Except as otherwise provided by statute or by these Bylaws, a minimum of 51% of the directors must be present to constitute a quorum for the transaction of business at any meeting and the act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Corporation. In the absence of a quorum, a majority of the Directors present may adjourn any meetings, and reconvene once a quorum is assembled, without giving further notice.

Section 2.12. Meeting Attendance. It shall be the policy of the Corporation to require attendance at all Directors meetings. In the event a Director misses three (3) or more meetings, the Board of Directors may, if deemed appropriate, ask for the resignation of that Director. If the Director does not resign upon request, then the removal provisions of Section 2.13 must be followed if the Board, in its discretion, decides removal is appropriate. However, it shall also be the policy of the corporation to attempt to accommodate the schedules of its Directors who demonstrate continuing interest in the affairs of the Corporation. It shall be at the discretion of the Board of Directors to invoke this provision.

Section 2.13. Removal of Directors. Any Director, with the exception of the permanent seats, as outlined in Section 2.04 of these Bylaws, may be removed with or without cause at any time. Removal shall be by a vote of a majority of all Directors of the Corporation at a regular meeting or a special meeting of the Directors called for that purpose. Written notice stating the place, date, hour and the purpose of any special meeting called for the purpose of removing one or more Directors must be delivered to all Directors at least twenty (20) days prior to such meeting. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the Director at his or her address as it appears on the records of the Corporation, with postage thereon prepaid. The vacancy in the Board of Directors caused by any such removal shall be filled in the manner specified in Section 2.06 hereof.

Section 2.14. **Proxies.** Proxies shall not be allowed or used.

Section 2.15. **Action of Board by Consent.** Any action required by the Texas Non-Profit Corporation Act to be taken at a meeting of the Directors of the corporation or any action that may be taken at a meeting of the Directors or of any committee may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of Directors or committee members, respectively, as would be necessary to take that action at a meeting at which all of the Directors or members of the committee were present and voted. Each written consent shall conform to the requirements of the Texas Non-Profit Corporation Act as it is amended from time to time.

ARTICLE III OFFICERS

Section 3.01. **Number.** The officers of the Corporation shall be a President, a Secretary, a Treasurer and, if the Board shall so elect, one (1) or more Vice Presidents and such other officers as may be appointed by the Board of Directors. Any two (2) or more offices, except those of President and Secretary, may be held by the same person.

Section 3.02. **Election, Term of Office and Qualification.** All officers shall be elected annually by the Directors of the Corporation, except in the case of officers appointed in accordance with the provisions of Sections 3.05 or 3.10. Each shall hold office for a period of one (1) year and until his or her successor shall have been duly elected and qualified, or until his or her death, or until he or she shall resign, or until he or she shall have been removed in the manner hereinafter provided. Officers shall be Directors.

Section 3.03. **Resignation.** Any officer may resign at any time by giving written notice of his or her resignation to the Board of Directors, to the President, or to the Secretary of the Corporation. Any such resignation shall take effect at the time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.04. **Election and Removal.** Election of an officer shall not, of itself, create contract rights. Any officer elected by the Board of Directors may be removed by the Board whenever in its judgment, the best interest of the Corporation would be served thereby. Such removal shall be without prejudice to the contract rights, if any of the person so removed.

Section 3.05. **Vacancies.** A vacancy in any office because of death, resignation, removal or any other cause shall be filled for the unexpired portion of the term in the manner prescribed in these Bylaws for election or appointment to such office.

Section 3.06. **President.** The President shall not be an employee, trustee, agent or member of the Board of Trustees of the New Caney Independent School District. The President shall assume all duties normally associated with that office. The President shall be the chief executive officer of the Corporation and shall have general active management of the business of the Corporation. He or she, shall, when present, preside at all meetings of the Directors. He or she shall see that all orders and resolutions of the Board of Directors are carried into effect. He or she, with the proper signature of one other duly qualified officer of the Corporation, may execute and deliver in the name of the Corporation, any deeds, mortgages, bonds, contracts or other instruments pertaining to the business of the Corporation, including without limitation, any instruments necessary or appropriate to enable the Corporation to donate income or principal of the Corporation to or for the account of any organizations, causes and projects described in the Certificate of Formation of the Corporation which the Corporation was organized to support. He or she shall perform such other duties as may from time to time be prescribed by the Board of Directors.

Section 3.07. **Vice President.** The Vice President shall not be an employee, trustee, agent or member of the Board of Trustees of the New Caney Independent School District. Each Vice President shall be elected by the Board of Directors shall have such powers and shall perform such duties as may be specified in the Bylaws or prescribed by the Board of Directors or by the President. In the event of absence or disability of the President, the Vice Presidents shall succeed to their power and duties in the order designated by the Board of Directors.

Section 3.08. **Secretary.** The Secretary shall not be an elected position but shall be filled on a permanent basis by the New Caney ISD Superintendent of Schools. The Secretary shall see that the proceedings of the meetings of the Board of Directors are kept. He or she shall, when directed to do so, notify the Directors of all meetings and perform such other duties as may from time to time be prescribed by the Board of Directors or by the President and in general, shall perform all duties incident to the office of the Secretary.

Section 3.09. **Treasurer.** The Treasurer shall not be an employee, trustee, agent or member of the Board of Trustees of the New Caney Independent School. The Treasurer shall cause to be kept accurate accounts of all funds of the Corporation received or disbursed. He or she shall deposit all funds, drafts and checks in the name of, and to the credit of, the Corporation in such banks and depositories as the Board of

Directors, by resolution, shall, from time to time designate. He or she shall have power to endorse for deposit all notes, checks and drafts received by the Corporation. He or she shall cause to be rendered to the President and the Directors, whenever required, an account of all his or her transactions as Treasurer and of the financial condition of the Corporation, and shall perform such other duties as may from time to time be prescribed by the Board of Directors or by the President, and in general, shall perform all duties incident to the office of the Treasurer.

Section 3.10. Other Officers. The Corporation may have such other officers and agents as may be deemed necessary by the Board of Directors, who shall be appointed in such manner, have such duties and hold their office for such terms as may be determined by resolution of the Board of Directors.

Section 3.11. Election Procedure. The Nominating Committee shall provide each Director with a list of officers at a Board meeting prior to year end. The slate of proposed officers shall be presented for vote at the annual meeting. A vote by the Board of Directors shall be required to elect officers.

ARTICLE IV COMMITTEES

Section 4.01. Standing Committees. The Directors may establish one or more Standing Committees and determine the duties and authority of any such committee. Standing committees of the Corporation shall be as follows:

- (a) **The Executive Committee**, to be composed of seven (7) Directors, shall be charged with the duties of managing the Corporation in the ordinary course of business, employment of personnel, and the general handling of the affairs of the Corporation and the carrying out of the purposes of the Corporation and the performance of such other duties as may be imposed upon it or authorized by the Board of Directors. The Executive Committee shall be subject to the control of and be responsible to the Board of Directors and shall keep and make reports to the Board of Directors, but there shall be no necessity of a further resolution specially authorizing its actions in the general handling of the affairs of the Corporation. The Executive Committee shall be comprised of those persons who hold the offices of President, Vice President of Administrative Affairs, Vice President of Development, Secretary, Treasurer and two (2) Directors At-Large, as recommended by the Executive Committee and approved by the Board of Directors. The Executive Director of the Foundation shall serve on the executive committee without vote.
- (b) **The Special Projects Committee**, shall be charged with the duty of managing the special projects to be undertaken by the Corporation in

- accordance with its purpose, and overseeing the use of any special project funds and properties committed to its care and the performance of such other duties as may be imposed upon it or authorized by the Board of Directors.
- (c) **The Nominating Committee**, shall be charged with the duty of making nominations to the Board of Directors for elective offices and for vacancies in the Board of Directors. Such nominations shall not preclude the right of additional nominations being made at any meeting of the Board where an election of an officer or a Director is being considered. The Nominating Committee shall be composed of the New Caney ISD Superintendent of Schools, a representative of the New Caney ISD Board of Trustees and at least three (3) foundation directors who shall be appointed by the Board of Directors.
- (d) **The Standing Committees**, other than the Executive Committee, and the Nominating Committee, shall be composed of such numbers of members as may be determined by the Board of Directors, and shall be appointed by the President. The Executive Committee and the Nominating Committee shall be composed exclusively of members of the Board of Directors. Membership of the remaining standing committees need not be composed entirely of the members of the Board of Directors; provided, at least two (2) Directors shall be members of each of said standing committees.

Section 4.02. **Special Committees.** The Board of Directors may from time to time, authorize special committees to be appointed by the President. The Board of Directors shall specify the number of persons composing such special committees and the terms and duties of such special committees. While the membership of the special committees need not be composed entirely of members of the Board of Directors, at least a majority of members of each special committee of such Board shall be Directors.

Section 4.03. **Term of Office.** Each member of a committee shall continue to serve on the committee until the next annual meeting of the Directors and until a successor is appointed. However, the term of a committee member may terminate earlier if a committee member is terminated, dies, ceases to qualify, resigns, or is removed as a member. A vacancy on a committee may be filled by an appointment made in the same manner as an original appointment. A person appointed to fill a vacancy shall serve for the unexpired position of the previous committee member's term.

Section 4.04. **Committee Meetings.** Committee meetings shall be called and presided over by the Chairman of the committee, or in his or her absence or disability, by the Vice Chairman, or in case of absence and/or disability of both the chairman and Vice Chairman by any member thereof after reasonable notice to all of the committee members. Committees shall meet as often as necessary to properly discharge their

duties. A simple majority of committee members present in person shall constitute a quorum for any committee meeting and a simple majority vote of those present and voting at any committee meeting at which a quorum is present shall constitute the action or report of the committee.

Section 4.05. **Chair and Vice Chair.** The Chairman and Vice Chairman of each committee shall be appointed by the President of the Corporation.

Section 4.06. **Proxies.** Proxies shall not be allowed or used by any committee member.

Section 4.07. **Reference to Committees.** While it shall not be required, it is recommended, when applicable, that matters be referred to appropriate committees for consideration and recommendations prior to Board action.

Section 4.08. **Action in Lieu of Meeting.** If all the members of a committee consent in writing to any action, such action shall be as valid as if authorized at a meeting of the committees. Such consent, setting forth the action so taken, shall be filed with the minutes of the proceedings at the next committee meeting.

ARTICLE V FISCAL AGENTS

This Corporation may designate such fiscal agents, investment advisors and custodians as the Board of Directors may select by resolution. The Board of Directors may at any time, with or without cause, discontinue the use of the services of any such fiscal agent, investment advisor, or custodian.

ARTICLE VI FIDUCIARY RESPONSIBILITY

It shall be the policy of this Corporation that the Board of Directors shall assume and discharge fiduciary responsibility with respect to all funds and other assets held or administered by this Corporation.

ARTICLE VII POLICIES WITH RESPECT TO DISTRIBUTION OF PRINCIPAL, INCOME AND RELATED MATTERS

Section 7.01. **Distribution Policy.** Distributions shall fund programs and projects that are aligned with the mission, Strategic Plan and educational philosophy of the New Caney Independent School District.

Section 7.02. Annual Distributions. It shall be the policy of this Corporation to make annual distributions for one or more of the educational purposes for which it is organized, including administrative expenses and amounts paid to acquire an asset used (or held for use) directly in carrying out one or more of its purposes, in an amount determined by the Board of Directors to be appropriate. In any such distribution of funds, no discrimination shall be made on account of the age, sex, color, religious affiliation, disability or national origin of the individuals or programs to be benefited thereby.

Section 7.03. No Self-Dealing. It shall be the policy of this Corporation not to engage in any act which would constitute "self-dealing" as defined in Section 4941(d) of the Internal Revenue Code of 1986, as now enacted or as hereafter amended.

Section 7.04. No Jeopardy Investments. It shall be the policy of this Corporation to assure that no funds, whether title thereto is vested in this Corporation or is vested in a trust for the benefit of this Corporation, are invested or reinvested in such a manner as to jeopardize the carrying out of any educational purposes for which this Corporation is organized.

Section 7.05. Expenditure Responsibility. Through its Board of Directors, this Corporation shall exercise "expenditure responsibility" as defined in Section 4945 (h) (1) and (2) of the Internal Revenue Code of 1986, as now enacted or as hereafter amended, with respect to all grants and distribution.

Section 7.06. Reasonable Return. The Board of Directors shall take steps to assure that each Director, agent, or custodian of the unrestricted trusts or funds that are a component part of this Corporation, will administer them in accordance with accepted standards of fiduciary conduct to produce a reasonable (as determined by the Board of Directors) return of net income.

Section 7.07. Confidentiality Agreement.

ARTICLE VII BOOKS OF RECORD, AUDIT, FISCAL YEAR, BOND

Section 8.01. Books and Records. The Board of Directors of this Corporation shall cause to be kept:

- (a) Records of all proceedings of the Board of Directors and Committees thereof; and

- (b) All financial statements of this Corporation; and
- (c) Certificate of Formation and Bylaws of this Corporation and all amendments thereto; and
- (d) Such other records and books of account as shall be necessary and appropriate to the conduct of the corporate business.

Section 8.02. Audit and Publication. The Board of Directors shall cause the records and books of account of this Corporation to be reviewed or audited at least once in each fiscal year in such a manner as may be deemed necessary or appropriate and also shall make such inquiry as the Board of Directors deems necessary or advisable in to the condition of all trusts and funds held by any agent or custodian for the benefit of this Corporation. The Directors shall retain any such person or firm for such purposes as they may deem appropriate. Not later than six (6) months after the close of each fiscal year of this Corporation, the Board of Directors shall furnish to the Board of Trustees of this New Caney Independent School District, copies of the Corporation's financial statements for its immediately preceding fiscal year and may, if determined necessary or appropriate by the Board of Directors, cause such financial statements to be published in one or more local newspapers having a general circulation and distribution, as may be selected by the Board of Directors.

Section 8.03. Fiscal Year. The fiscal year of the Corporation shall begin on January 1 and end on December 31 of each year.

Section 8.04. Bond. It has been deemed unnecessary to obtain a bond by the Board of Directors.

ARTICLE IX TRANSACTIONS OF THE CORPORATION

Section 9.01. Contracts. The Board of Directors may authorize any officer or agent of the Corporation to enter into a contract or execute and deliver any instrument in the name of and on behalf of the Corporation.

Section 9.02. Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purpose or for a specific purpose of the Corporation. The Board of Directors may make gifts and give charitable contributions that are not prohibited by the Bylaws, the Certificate of Formation, state or federal law, and any requirements for maintaining the Corporation's federal and state tax status.

Section 9.03. Conflicts of Interest. The Corporation's affirmative policy shall be to require that all actual or potential conflicts be discussed promptly and disclosed fully to the Board of Directors and all other necessary parties. Any Director having a conflict on any matter shall neither participate in the deliberation nor vote on any such matter. The Board of Directors may from time to time, establish such rules and regulations in furtherance of this policy, as deemed appropriate.

Section 9.04. Nonprofit Operation. The Corporation will not have or issue shares of stock. No dividends will be paid. No part of the income or assets of the Corporation will be distributed to its Directors or officers without full consideration. No Director or officer of the Corporation has any vested right, interest or privilege in or to the assets, property, functions or activities of the Corporation.

ARTICLE X WAIVER OF NOTICE

Whenever any notice is required to be given by these Bylaws or any of the corporate laws of the State of Texas, such notice may be waived in writing, signed by the person or persons entitled to said notice, whether before, at, or after the time stated, or before, at, or after the meeting. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the Director at his or her address as it appears on the records of the Corporation, with postage thereon prepaid.

ARTICLE XI INDEMNIFICATION AND INSURANCE

Section 11.1. Indemnification and Representation. The Corporation shall indemnify and provide for the defense of any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) as a result of his or her actions or omissions within the scope of his or her official capacity for the Corporation as a Director, officer, employee, or agent of the Corporation, to the full extent permitted under Texas state law, as in effect from time to time.

Section 11.2. Insurance. The Corporation shall purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture,

trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of paragraph 11.1 of Article XI of these Bylaws.

ARTICLE XII AMENDMENTS

The Board of Directors may amend this Corporation's Certificate of Formation and these Bylaws to include or omit any provision which could be lawfully included or omitted. Any number of amendments, or an entire revision or restatement of the Certificate of Formation or Bylaws, may be adopted at such meeting a quorum being present, upon receiving the affirmative vote of not less than two-thirds of the whole number of Directors. However, amendment of Article IV (Purposes) of the Certificate of Formation may be made only with the unanimous approval and resolution of all Directors.

ARTICLE XIII MISCELLANEOUS PROVISIONS

Section 13.01. **Governing Law.** The Bylaws of the Corporation shall be governed by and construed in accordance with the laws of the State of Texas.

Section 13.02. **Severability.** If any Bylaw provision is held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions and the Bylaws shall be construed as if the invalid, illegal, or unenforceable provision had not been included in the Bylaws.

Section 13.03. **Gender.** Whenever the context requires, all words in the Bylaws in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural nouns shall include the singular.

Section 13.04. **Diversification.** It is the aim and intent of the New Caney ISD Education Foundation to reflect and embrace racial, religious and gender diversification within all levels of its governing body, staffing, grant recipient allocation and selection process including vendor selections and corporate sponsors.

The undersigned certifies that he is the Secretary of the New Caney ISD Education Foundation and that the foregoing Bylaws were duly adopted as the first

Bylaws of the Corporation, at a duly called meeting of the initial Board of Directors held on June 27, 2012.

Dated: June 27, 2012

Kenn K. Franklin, Secretary