

September 27, 2023

NEW YORK STATE HIGHER EDUCATION CAPITAL MATCHING GRANT BOARD

BY-LAWS

ARTICLE I

Offices

Section 1.1. Location. The principal office of the New York State Higher Education Capital Matching Grant Board (the “HECap Board”) shall be located within the State of New York at the offices of the Dormitory Authority of the State of New York, located at 515 Broadway, Albany, New York. The HECap Board may also maintain additional offices within the State of New York as the Board may from time to time determine.

ARTICLE II

Powers, Organization and Administration

Section 2.1. Governing Laws and Existence of the Board The powers, organization and administration of the HECap Board shall be in accordance with the provisions of Part U of Chapter 63 of the Laws of 2005, as amended (the “Act”), and any other applicable laws and these By-Laws. The HECap Board shall remain in existence during the period of the New York State Higher Education Capital Matching Grant Program through March 31, 2010, or the date on which the last of the funds available for grants under this program shall have been disbursed, whichever is earlier.

Section 2.2. Powers of Members. Subject to the provisions of the Act and these By-Laws, the activities and affairs of the HECap Board shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate responsibility for management of certain activities and affairs of the HECap Board to the Dormitory Authority, which acts as staff to the HECap Board pursuant to the Act, provided that these activities and affairs of the HECap Board shall be exercised under the ultimate direction of the Board.

Section 2.3. Fiscal Year. The fiscal year of the HECap Board shall begin April 1 and end March 31.

Section 2.4. Form of Seal. The seal of the HECap Board shall be in such form as may be determined, from time to time, by the HECap Board. The seal on any HECap Board obligation for the payment of money may be a facsimile.

ARTICLE III

Meetings of the HECap Board and Duties of the Officers

- Section 3.1. Annual Meeting. The first meeting in each fiscal year shall be the Annual Meeting of the HECap Board and shall be held at the time and place, within the State of New York, designated in the notice of same.
- Section 3.2. Regular Meetings. The HECap Board may establish a schedule of regular meetings to be held, within the State of New York, between the annual meetings. The regular business of the HECap Board may be transacted at such meetings.
- Section 3.3. Special Meetings. Special meetings of the Board may be called by the Chair upon the written request of two of the Members. Each special meeting shall be held at the time and place, within the State of New York, as the person calling same shall determine.
- Section 3.4. Notices. Notice of each annual and each special meeting of the HECap Board shall be given by mailing the same, at least three days before the day on which the meeting is to be held, to the address of each Member designated by him or her for such purpose (or, if none is designated, to his or her last known address) or by delivering it personally or telephonically at least 12 hours in advance of the time for which the meeting is called. Notice of any meeting need not be given to any Member who submits a signed waiver of notice thereof before, at or after the meeting or if his or her duly appointed representative submits a signed waiver of notice at the meeting. Neither the business to be transacted at, nor the purpose of, any meeting of the HECap Board need be specified in any notice or written waiver of notice unless so required by these By-Laws. Notice to the public shall also be given in accordance with the requirements of the Open Meetings Law.
- Section 3.5. Exercise of Powers and Voting All action shall be taken by a unanimous vote of the Members of the Board. Voting on any matter shall be by roll call and the yeas and nays shall be entered upon the minutes of such meeting. Any determination of the HECap Board shall be evidenced by a certification thereof executed by all the Members.
- Section 3.6. Meetings by Videoconference.
- a) The Board has determined that meetings may be held by videoconference, subject to the provisions herein. The option of videoconferencing will facilitate participation by the Members of the Board and will allow additional opportunities for members of the public to attend, listen, and observe the meetings of the Board via videoconference technology or from at least one physical location at which one or more Members participates.
 - b) Each Member shall be physically present at each meeting, at one of the locations that is open to the public, unless such Member is unable to be

physically present at any such meeting location due to extraordinary circumstances.

- c) The Board has determined that the following reasons constitute extraordinary circumstances: (1) illness; (2) disability; (3) caregiving responsibilities; (4) religious observance; (5) adverse weather and/or travel conditions; (6) the Member is more than 3 hours away from the nearest location that shall be open to public attendance due to personal or business travel; (7) a Federal, State, or local election at which the Member is eligible to vote; (8) or another significant or unexpected factor or event which, in the discretion of the Chair, precludes the Member's physical attendance at such meeting.
- d) If a Member is unable to be physically present at one of the designated public meeting locations and wishes to attend by videoconference from a private location because of extraordinary circumstances as defined above, the Member may attend Board Meetings by videoconference from a private location without allowing in person public attendance. The Member shall take precautions to ensure that information discussed in Executive Session is not able to be heard or viewed by parties other than the Member. The Member shall so notify the Board Chair and the Assistant Secretary to the Board as soon as possible after the extraordinary circumstance becomes known.
- e) If the number of Members physically present at one or more physical locations open to the public constitutes a quorum, the Meeting may be convened. A Member who is attending from a private location shall not count toward the quorum, but that Member may participate and vote, provided that the number of Members participating at one or more physical locations open to the public constitutes a quorum.
- f) Members participating by videoconference, whether from a location open to the public or from a private location due to extraordinary circumstances, must be able to be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. The Member must be visible on screen and must have his or her name displayed on the screen.
- g) If videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, where the public can view and/or participate in such meeting, where required documents and records will be posted or available, and identify the physical locations for the meeting where the public can attend.
- h) Every meeting conducted via videoconference shall be recorded and such recordings posted or linked on that section of the DASNY website dedicated to the HECap Board within five business days following the meeting and shall remain available for a minimum of five years thereafter. Such recordings shall be transcribed upon request. Minutes of the meeting shall be posted as soon as practicable after the meeting.

- i) During a State disaster emergency declared by the Governor pursuant to Executive Law, if the HECap Board determines that the circumstances that necessitated the emergency declaration would affect or impair the ability of the Board to hold an in-person meeting, the meeting may be conducted without in-person participation to the extent permitted by law.

Section 3.7. Presiding Officer. At all meetings of the HECap Board, the Chair shall be the presiding officer. The members of the HECap Board shall vote among themselves to determine who shall serve as the Chair.

Section 3.8 Secretary. The Secretary shall be appointed by the Chair, and shall act as Secretary of all meetings of the HECap Board, shall keep minutes thereof. The Secretary shall see that all notices required to be given by the HECap Board are given and served; be custodian of the seal of the HECap Board and may impress the seal upon all documents the execution of which on behalf of the Board under its official seal is authorized by resolution or in these By-Laws; have charge of the books, records and papers of the HECap Board relating to its organization and management; see that the reports, statements and other documents required by law are properly kept, filed and made available to the Members; and in general, perform all duties incident to the Office of Secretary and such other duties as from time to time may be assigned by the Chair.

Section 3.9. Procedure. The order of business and all other matters of procedure at each meeting of the HECap Board may be determined by the presiding officer.

ARTICLE IV

Members Generally

Section 4.1. Members. Pursuant to the Act, the membership of the HECap Board shall consist of three persons appointed by the governor, of which one shall be upon the recommendation of the temporary president of the senate and one upon the recommendation of the speaker of the assembly.

Section 4.2 Term of Office. The term of the Members shall each be for one year ending on March 31 in each year, other than a Member's initial term which shall be from the date of his or her appointment until the succeeding March 31.

Section 4.3 Representatives. Each Member of the HECap Board may be entitled to designate a representative to attend meetings of the HECap Board on the designating Member's behalf, and to vote or otherwise act on the designating Member's behalf in the designating Member's absence. Notice of such designation shall be furnished in writing to the HECap Board by the designating Member. A representative shall serve at the pleasure of the

designating Member during the Member's term of office. A representative shall not be authorized to delegate any of his or her duties or functions to any other person.

Section 4.3. Acts of the HECap Board. All acts, agreements and documents of the HECap Board shall be performed or executed in the name of the HECap Board evidenced by the signature of all of the Members.

Section 4.4. Removal and Vacancies. Upon the recommendation of the nominating party, the Governor shall replace any Member in accordance with the Act.

ARTICLE V

Indemnification of Members, their Representatives, Officers and Staff

Section 5.1. Right of Indemnification. In accordance with the Act, the Members, their Representatives, officers and staff to the HECap Board shall be deemed employees within the meaning of Section 17 of the Public Officers Law.

ARTICLE VI

Amendments

Section 6.1. Procedure for Amending By-Laws. By-Laws of the HECap Board may be adopted, amended or repealed at any meeting of the HECap Board, notice of which shall have referred to the proposed action, by unanimous vote of the Members of the Board.