

Council By-Laws

East Bay Estate Planning Council (Revised through May 2009)

I. NAME AND PURPOSE

1. The name of this corporation is ESTATE PLANNING COUNCIL OF THE EAST BAY, dba EAST BAY ESTATE PLANNING COUNCIL.
2. The Estate Planning Council of the East Bay is an association of professionals who are engaged in estate planning and seek by their membership to enhance their knowledge and practice skills and to develop a better understanding among the various disciplines engaged in the field of estate and financial planning.

II. MEMBERSHIP

1. There shall be three classes of members: (a) active members; (b) retired members; and (c) honorary/special academic members. As used in these Bylaws, the words “member”, “members” and “membership”, unless expressly otherwise stated, refer only to active members.
2. There shall be five professional categories of active members:
 - (a) Attorney
 - (b) Certified Public Accountant (CPA)
 - (c) Chartered Life Underwriter (CLU), Certified Financial Planner (CFP), Chartered Financial Consultant (ChFC)
 - (d) Certified Trust and Financial Advisor (CTFA), and
 - (e) Member-at-large.
3. Active members shall engage in business in the East Bay area of California substantially full-time in one of each of the five professional categories listed above, and shall meet and maintain the following criteria appropriate to their respective categories. Attorneys and Certified Public Accountants will be accepted for membership if licensed in any of the 50 states or the District of Columbia. Chartered Life Underwriters, Certified Financial Planners, and Chartered Financial Consultants will be accepted for membership if they have achieved their respective designations.

Certified Trust and Financial Advisors shall include anyone who has achieved the CTFA designation and is employed in a fiduciary capacity in a trust department of a bank having a trust office, and doing business in the East Bay area or who has served as an independent fiduciary on a substantially full-time basis for at least three years prior to applying for membership or who is licensed under the current California law as a licensed Private Professional Fiduciary.

An applicant will be admitted as a member of categories “c,” “d” and “e” of Article II, Section 2, at the discretion of the Board based upon the applicant’s demonstrated qualifications, including, but not limited to, the type and length of employment related to the estate planning process, level of formal education, and activities in the estate planning arena as demonstrated by memberships in other organizations, speaking and/or teaching engagements, published articles, and general stature in the business and/or academic community.

Any person who does not meet these requirements but who is a member of the Estate Planning Council of the East Bay as of the effective date of these revised BYLAWS may maintain membership in the Council notwithstanding. However, a member whose membership lapses shall re-apply under the applicable standards.

4. The Board is authorized to admit into the member-at-large category of active members, individuals who do not meet the specified criteria of the other four active professional member categories, but who do satisfy the discretionary standard of the Board cited above.

An applicant will be admitted as a member-at-large at the discretion of the Board based upon the applicant's demonstrated qualifications, including, but not limited to, the type and length of employment related to the estate planning process, level of formal education, and activities in the estate planning arena as demonstrated by memberships in other organizations, speaking and/or teaching engagements, published articles, and general stature in the business and/or academic community.

5. Each professional category of active members of this Council shall be limited to fifty percent (50%) of the total membership calculated as of the close of the prior fiscal year, except that members-at-large shall not exceed 25% of the total active membership, so calculated. Any persons who can qualify for membership under more than one of the aforesaid categories shall be deemed to so qualify only under that profession in which such a person is actively and predominately engaged, and under which such person applied.
6. Applicants for membership shall attend at least one meeting of the corporate membership, and thereafter within three months apply for membership in writing. Application shall be accompanied by one year's dues.
7. Applicants for membership shall become members upon a majority vote of the Board of Directors.
8. Membership of any member may be terminated at the discretion of the Board of Directors or of the membership upon any of the following grounds: for inexcusable failure to attend a minimum of three meetings of the membership during each full fiscal year, as defined in Article VII which commences on or after the date of his or her admission to membership; for failure to pay dues or any fine or assessment within one month after same have become delinquent; for conduct not in conformity with the standard of ethics of the member's profession; or for other good cause. Before membership of any member may be terminated, such members shall be given written notice by first-class or registered mail to the last address of the member shown on the Council's records of intent to terminate, which notice shall set forth the general ground or grounds for termination of membership; the time and place of the holding of a meeting of the Board of Directors or of the membership for the purpose of acting on the termination of membership and which meeting shall be held not less than thirty days after mailing of such notice; and a statement that such member shall have the right to present oral and/or written evidence of good cause for continuation of membership to the Board of Directors or to the membership, as the case may be, at or at any time prior to, the meeting to be held as aforesaid. Provided, however, that evidence of good cause for failure to pay dues or any fine or assessment within one month after same have become delinquent shall not be considered unless accompanied by a tender of such delinquent sums. Termination of membership upon any of aforesaid grounds shall become effective only if notice is duly given as aforesaid and then only upon two-thirds vote of the Board of Directors or the membership present at a duly constituted meeting thereof held in accordance with said written notice.
9. The right is reserved to any member to resign from the Council at any time upon notice in writing addressed to the Secretary.

10. Each active member shall be entitled to one vote and shall enjoy all the rights and be subject to all of the obligations set forth in these Bylaws with respect to members. No vote by proxy shall be recognized.
11. A retired member is member who has previously been active in this organization for a period of five years or more but has retired, who wishes to remain active in this organization, who makes application to the organization as a retired member and who shall pay twenty-five percent (25%) of the current annual dues paid by active members. There shall be no limitation on the number of retired members in any professional category. A retired member shall be notified of meetings of the membership and shall be entitled to attend and participate in the discussions at such meetings, but shall not be required to attend a minimum number of such meetings. A retired member shall not be entitled to vote or nominate candidates for office or the Board of Directors, or member of the Nominating Committee, but may serve on a committee pursuant to appointment made by the President under Article V. No vote cast by a person, or/other act done by a person as officer, director, committee member or otherwise, shall be invalidated or otherwise subject to question after the same becomes final, if such person, at the time of voting or acting, appeared as an active member in the Council's membership records. Except as otherwise set forth in this Section 11, a retired member has the same rights, duties and privileges as an active member and is subject to termination in the same manner as an active member.
12. A retired member who resumes substantially full-time business or professional activities sufficient to qualify the member under Section 2 of this Article II may continue as a retired member or the member may, while so engaged and after having attended at least one meeting of the membership while so engaged, make application for active membership in the same manner as provided herein for new members, except that the application need not be accompanied by payment of dues, unless the applicant has not yet paid dues for the year. The application of a retired member for reinstatement as an active member shall be given priority in admission to active membership over any person whose application in the same business or professional category is pending on or after the date the Board of Directors received the application of the retired member, and any other retired member who has less total time as a member (retired as well as active).
13. Honorary/special academic members shall be notified of meetings of the membership and shall be entitled to attend and participate in the discussions at such meetings, but shall not be required to attend any minimum number of such meetings. Honorary/special academic members shall not be entitled to vote or nominate candidates for office of the Board of Directors, or to serve as an officer, member of the Board of Directors, or member of the Nominating Committee, but may serve on a committee pursuant to appointment made by t6he President under Article V. No vote cast by a person, or other act done by a person as officer, director, committee member or otherwise, shall be invalidated or otherwise subject to question after the same become final, if such person, at the time of voting or acting, appeared as an active member in the Council's membership records. Honorary/special academic members shall not be subject to dues or assessments. There shall be no limitation on the number of honorary/special academic members.
14. The Judge of the Superior Court of Alameda County who is permanently assigned as Judge of the Probate Department thereof, and the Alameda County Court Commissioner(s) permanently assigned to the probate Department are hereby designated as honorary members of the Council with the understanding that such membership may be terminated without notice and with or without cause by majority vote of the Board of Directors.

III. OFFICERS

1. The officers of the Council shall be President, Vice President, Secretary, Treasurer, and the Membership Chairman.
2. All officers shall be selected by a vote of a majority of the members of the Council present at the annual meeting, and shall hold office for one year and until their successors shall be chosen.
3. Officers shall have the powers and duties customary to their respective offices, and such further powers or duties as the Board of Directors shall prescribe.
4. All dues and other funds received by the Council shall be deposited by the Treasurer into a segregated insured account opened in the name of the East Bay Estate Planning Council. All withdrawals of such funds shall be on checks or orders signed by either the Treasurer or the President. In the absence of both the President and the Treasurer, the Vice President is authorized to sign checks or orders.
5. The Treasurer shall prepare and submit a statement of the financial condition of the Council at the annual meeting and at such other times, and in such manner as the Board of Directors may require, and shall cause to be prepared all annual tax filings required by law.

IV. BOARD OF DIRECTORS

1. All powers necessary for the governance of the Council shall be vested in the Board of Directors which shall be composed of at least eleven members of the Council, and shall include the incumbent officers and the immediate past President of the Council. Of these eleven persons, at least one shall at all times represent each of the five professional categories herein represented. When any of the five professional categories exceeds twenty members, one additional board member must represent that category. This requirement must be met when a vacancy occurs or at the time of the annual election.
2. At the annual meeting, three members shall be elected for a term of two years. Each member of the Board of Directors shall serve for the term for which the member shall have been elected and until election of his successor. The Board may fill any vacancies occurring between annual meetings.
3. Meeting of the Board of Directors may be called by the President at his or her discretion, or by any three members of the Board. The Board, subject to all rules of quorum and other procedure and practice for any meeting, may meet and conduct business of the Board electronically. A record in the form of minutes of the business conducted and quorum achieved shall be maintained as for any other meeting of the Board.
4. It shall be the duty of Board of Directors to establish rules of procedure and practice for any meeting, subject to the approval of, or amendment by, the Council. A majority of the Board of Directors shall constitute a quorum for the transaction of business.

V. OTHER COMMITTEES

1. The President, with the approval of the Board of Directors, may appoint committees on Programs, Membership, Ethics, Cooperation, Conferences, and Education, Publicity and other such matters as are deemed advisable to further the interests of the Council and its members, and shall delegate to such committees such power and authority as the Board of Directors shall deem advisable.
2. The duties of the Nominating Committee are set forth in Article VII.

VI. MEETINGS

1. The annual meeting of the Council shall be held at the last regular meeting of the fiscal year or at such other time and place as may be selected by the Board of Directors. The Secretary shall mail notice of the meetings by first-class mail to each member thereto which notice shall also set forth the agenda of the meeting, however, the members may vote and adopt any proper matter presented at the meeting.
2. Meetings for the furtherance of the objects of this Corporation may be called by the Board of Directors at stated times or from time to time in their discretion, and the program of such meetings shall be arranged by the Board of Directors. If any action requiring a vote of the members is to be taken at a meeting, other than the annual meeting, notice of such action shall be mailed by first-class mail to the members at least ten days prior to such meeting.

VII. NOMINATIONS AND ELECTIONS

1. At least fifteen days prior to the date of the meeting which precedes the annual meeting, the President shall appoint a Nominating Committee of five members who shall consist of one representative of each of the five professional categories herein represented. This Committee shall submit a list of nominees for officers of the Council, and for members of the Board of Directors, to be acted upon at the annual meeting.
2. The Nominating Committee shall file the names of their nominees with the Secretary at least five days before the date of the meeting and present the slate of the nominees to the membership at said meeting.
3. Any five members may nominate candidates for officers of the Council and for members of the Board of Directors.
4. Any nominee shall be given the opportunity to communicate to the members the nominee's qualifications and the reason for the nominee's candidacy at the annual meeting prior to the election. If requested by any nominee, opportunity will be given for the nominee to solicit the votes of the members for use of the mailing list of the Council.
5. At the annual meeting the members shall be entitled to vote for any candidate named by either one of the above methods, and all candidates receiving a majority of the votes of the members present shall be declared elected. If no candidate for a position received a majority, the members shall vote again for one of the two receiving the greatest pluralities.

VIII. FISCAL MATTERS

1. The fiscal year of the Council shall commence on July 1 of each year and end on June 30 of the following year.
2. The Board of Directors shall have the power to determine the level of annual dues by majority vote of the entire Board. Annual dues shall be payable September 1 and shall be delinquent three months thereafter.
3. Member shall not be subject to any assessment beyond the annual dues except as voted by two-thirds of the members present at an annual or special meeting which has been noticed as provided in Article VI, paragraph 2.

IX. QUORUM

One third of all members in good standing of the Council shall constitute a quorum thereof for purposes of doing business of the Council, except as otherwise set forth herein.

X. INDEMNIFICATION OF OFFICERS AND DIRECTORS AND OTHER AGENTS

1. Definitions.

For the purpose of this Article,

- (a) "Agent" means any person who is or was a director, officer or other agent of this corporation;
- (b) "proceeding" means, any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and
- (c) "expenses" includes, without limitation, all attorneys' fees, costs and any other expenses incurred in the defense of any claims or proceedings against an agent by reason of his position or relationship as agent, and all attorneys' fees, costs and other expenses incurred in establishing a right to indemnification under this Article.

2. Successful Defense by Agent

To the extent that an agent of this corporation has been successful on the merits in the defense of any proceeding referred to in this Article, or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim. If an agent either settles any such claim or sustains a judgment rendered against him, then the provision of Sections 2 through 5 shall determine whether the agent is entitled to indemnification.

3. Actions Brought by Persons Other than the Corporation.

Subject to the required findings to be made pursuant to Section 5 below, this corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding other than an action brought by, or on behalf of, this corporation, for all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding.

4. Action Brought by or on Behalf of Corporation.

- (a) Claims settled out of court. If any agent otherwise disposes of a threatened or pending action brought by or on behalf of this corporation, with or without court approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceedings.
- (b) Claims and suits awarded against agent. This corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action brought by or on behalf of this corporation by reason of the fact that the person is or was an agent of this corporation for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

- (i) The determination of good faith conduct required by Section 5 below must be made in the manner provided for in that section; and,
- (ii) Upon application, the court in which the action was brought must determine that, in view of all the circumstances of the case, the agent should be entitled to indemnity for the expenses incurred. If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

5. Determination of Agent's Good Faith Conduct.

The indemnification granted to an agent in Section 3 and 4 above is conditioned on the following:

- (a) Required standard of conduct. The agent seeking reimbursement must be found, in the manner provided below, to have acted in good faith, in a manner the agent believed to be in the best interest of this corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in like position would use in similar circumstances.
- (b) Manner of determination of good faith conduct. The determination that the agent did act in a manner complying with paragraph (a) above shall be made by:
 - (i) The Board of Directors by a majority vote of a quorum consisting of directors who are not parties to the proceeding; or
 - (ii) The affirmative vote or written ballot of a majority of the votes represented and voting at duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum); or
 - (iii) The court in which the proceeding is or was pending. Such determination may be made on application brought by this corporation or the agent or the attorney or other person rendering a defense to the agency, whether or not the application by the agent, attorney or other person is opposed by this corporation.

XI. MISCELLANEOUS

- 1. Reference in the Bylaws to a particular gender shall be deemed to include the other.
- 2. These Bylaws may be amended at any annual or special meeting of the Council by a vote of two-thirds of the members present, provided that notice setting forth all proposed amendments, shall have been mailed to all members at least ten days prior to the date of such meeting.
- 3. Robert's Rules of Order shall be the parliamentary authority for all matters of procedure not specifically covered in these Bylaws.