Statutes of the evalag (Evaluationsagentur Baden-Württemberg) Foundation

I. General Provisions

§ 1 – Legal Form, Registered Office, Name
The Foundation shall bear the name of “evalag (Evaluationsagentur Baden-Württemberg)”, hereinafter abbreviated as “Foundation”. It is a foundation under public law capable of holding legal rights and having its registered office in Mannheim. It was established as a foundation of the state of Baden-Württemberg.

§ 2 – Purpose of the Foundation
As a centre of excellence for quality assurance and enhancement, the Foundation pursues the following objectives:

(a) Evaluations in the area of science on its own as well as on mandate of higher education institutions and the Ministry of Science of the federal state of Baden-Württemberg (hereinafter referred to as “state”),
(b) Development of systems for quality assurance and their application in the area of science, particularly in the higher education area,
(c) Consulting higher education institutions and other scientific institutions on questions of quality assurance and enhancement,
(d) Implementation of external quality assurance procedures in accordance with internationally applicable standards based on legal requirements,

As amended on February 26, 2009 (announcement by the Ministry of Science, Research and the Arts regarding the Statutes of the evalag (Evaluationsagentur Baden-Württemberg) Foundation on October 26, 2009, published in the GBI (Law Gazette of the state of Baden-Württemberg) dated November 18, 2009, no. 20, pp. 671-676), including § 13 as amended on March 30, 2010 (announcement by the Ministry of Science, Research and the Arts regarding the amendment to the Statutes of the evalag (Evaluationsagentur Baden-Württemberg) Foundation on April 22, 2010 published in the GBI (Law Gazette of the state of Baden-Württemberg), dated May 25, 2010, no. 8, pp. 414-415) including § 13 (5), § 18 (4), (5) and (6) and § 21 (3) as amended on November 22, 2010 (announcement by the Ministry of Science, Research and the Arts regarding the amendment to the Statutes of the evalag (Evaluationsagentur Baden-Württemberg) Foundation on November 25, 2010 in the GBI (Law Gazette of the state of Baden-Württemberg), dated December 17, 2010, no. 21, pp. 1052-1053) including § 13, § 15, § 16 as amended on June 1, 2015 (announcement by the Ministry of Science, Research and the Arts regarding the amendment to the Statutes of the evalag (Evaluationsagentur Baden-Württemberg) Foundation on June 17, 2015 in the GBI (Law Gazette of the state of Baden-Württemberg), dated July 13, 2015, no. 14, p. 633) and with amendments in § 2, § 5, § 7, § 9, § 12; § 13, § 16 and § 20 (Announcement of the Ministry of Science, Research and the Arts on the amendment of the statutes of the evalag (Evaluationsagentur Baden-Württemberg) Foundation of February 14, 2019 in the GBI of March 15, 2019).
(e) Other activities serving the promotion of science,
(f) Applied higher education research in the field of quality assurance in teaching and learning.

§ 3 – Public Benefit Purpose

(1) The Foundation shall exclusively and directly serve public benefit purposes in the sense of the “Steuerbegünstigte Zwecke” (purposes that qualify for tax benefits) section of the German Tax Code. It shall be dedicated to non-profit activities.

(2) Foundation funds shall only be used for the statutory purposes and for increasing the assets of the foundation. The foundation must not favour any persons by means of expenditure which is unrelated to the purpose of the Foundation or by excessive remuneration.

§ 4 – Assets of the Foundation

(1) The assets of the foundation shall consist of a capital fund of 520,000 € provided by the state, as well as of asset items and funds which are provided to the foundation by the state and by third parties, earnings from these funds and from properties and rights which are created or acquired with these funds.

(2) The assets of the Foundation shall only be used for the statutory purposes. The capital stock of 520,000 € shall not be touched unless the funds made available by the state and the other revenue are not sufficient to cover the expenditure provided for in an approved budget.

§ 5 – Funding of the Foundation

(1) The State shall raise the funds for the necessary expenditure of the Foundation, unless it is not covered by other revenue, by means of government grants provided in the state budget.

(2) The funds to be raised according to (1) shall be attributed to the Foundation in accordance with the budget law provisions.

(3) The assessment procedures for the preparation of accreditations at the Foundation for the Accreditation of Study Programmes in Germany, assessment procedures for certifications and international procedures of external quality assurance and all related activities of the scientific advisors shall be organised and performed on a self-financing basis. The Foundation may establish dedicated business units for this purpose.

§ 6 – Budget of the Foundation

(1) The economic plan of the Foundation must contain all revenue to be expected in the financial year and all expenditure presumably to be met. Revenue and expenditure shall be in balance.

(2) The economic plan is subject to approval by the authority responsible for the Foundation.

(3) Any grants allocated to the Foundation shall be recorded in an annex to the Foundation accounts.
§ 7 – Organisation of the Foundation

(1) The office shall be subdivided into at least two sections:
   a. Consultancy, Evaluation, Organisational Development,
   b. Accreditation/certification/assessment related to the external quality assurance procedures mentioned under § 5 (3)

(2) If required to fulfil the purpose of the Foundation, other sections may be established.

II. Organs of the Foundation

§ 8 – Organs

The organs of the Foundation shall be:
(a) the Foundation Board,
(b) the Accreditation Commission (AC),
(c) the Appeals Commission,
(d) the Chief Executive Officer.

§ 9 – Tasks of the Foundation Board

(1) The Foundation Board shall monitor the legality, usefulness and cost effectiveness of the conduct of the Foundation. It decides on matters of fundamental importance.

(2) In particular, the Foundation Board shall perform the following tasks:
   (a) Ensure internationally accepted standards of external quality assurance,
   (b) Participate in the development of procedures and instruments for quality assurance and quality management in research and education,
   (c) Continued development of the various fields of activities of the Foundation,
   (d) Develop standards for publications issued by the Foundation,
   (e) Deliberate and, if required, decide on evaluation reports,
   (f) Meta evaluations,
   (g) Determine the economic plan of the Foundation,
   (h) Decide on the choice of the Chief Executive Officer (managing director) of the Foundation and his / her deputy and approve decisions made by the Chief Executive Officer with respect to the scientific staff,
   (i) Decide on cooperation projects with other institutions,
   (j) Decide on amendments to the Statutes and the winding up of the Foundation,
   (k) Define the rules of procedure for the Foundation Board, the Accreditation Commission, the Appeals Commission and all other committees,
(l) Appoint the members of the Accreditation Commission and its chairperson as well as vote them out of office upon good cause,

(m) Determine general principles for certification and international external quality assurance procedures,

(n) Exercise general authority to lay down guidelines for the Accreditation Commission, which particularly includes the approval of principles of procedure and the specification of formal requirements for the appointment and composition of expert groups,

(o) Appoint the experts for all procedures to be undertaken by the agency.

(3) The Foundation Board may appoint (further) commissions and committees, as required.

(4) In urgent matters, the chairperson of the Foundation Board has the power of decision (§ 9 (1)). The other members of the Foundation Board are to be informed immediately.

§ 10 – Composition of the Foundation Board

(1) The Foundation Board shall consist of

(a) eight external experts appointed by the Minister of Science in consultation with the Rector's Conferences of the higher education institutions,

(b) one non-voting member, appointed by the Minister of Science, who may send an alternate,

(c) the chairperson, an external personality appointed by the Minister of Science in consultation with the Rectors' Conferences of the higher education institutions.

The members mentioned under (a) may, in case of absence, transfer their votes to another member of the Foundation Board.

(2) The chairperson and the members according to (1)(a) shall receive an adequate expense allowance.

(3) The Foundation Board shall assign a deputy of the chairperson from among the members.

(4) The term of office of the members of the Foundation Board shall be three years. A member may be reappointed twice. The appointment may be cancelled upon good cause. Members who drop off before their term of office ends shall be replaced immediately; the new appointment shall be valid for the remaining term of office.

§ 11 – Meetings and Resolutions of the Foundation Board

(1) A meeting of the Foundation Board shall be convened by the chairperson at least once each half-calendar year.

(2) The Foundation Board has the quorum if more than half of the members are present. The chairperson or his / her deputy must be present.

(3) The Foundation Board shall adopt rules of procedure. It makes its decisions based on the majority of the votes cast. In the event of equality of the votes, the chairperson shall have the casting vote. Decisions bearing on the winding up of the Foundation and on amendments to the Statutes require a majority of two thirds of the members of the Foundation Board.
4) The Chief Executive Officer of the Foundation and his / her deputy shall attend the meetings of the Foundation Board but shall have no voting rights. Guest attendees may join on a by-case basis.

§ 12 – Tasks of the Accreditation Commission

1) The Accreditation Commission is responsible for ensuring an adequate, science-driven selection of experts for the assessment procedures for the preparation of accreditations at the Foundation for the Accreditation of Study Programmes in Germany, thereby taking into account the procedures developed by the German Rectors’ Conference in accordance with Article 3 (3) of the Interstate Treaty on the organization of a joint accreditation system to ensure the quality of teaching and learning at German higher education institutions (Interstate study accreditation treaty).

2) The Accreditation Commission is responsible for all tasks in connection with the implementation of formal procedures of international external quality assurance and certification. Its tasks include the following:

(a) Determine assessment norms, criteria and principles for external quality assurance procedures (including certification) which ensure a coherent and uniform accomplishment of the procedures,

(b) (Continued) development of procedural principles for external quality assurance procedures (including certification),

(c) Selection of the expert groups (in particular by involving the academically relevant associated members),

(d) Decide on expert reports of external quality assurance procedures (including certification), unless otherwise specified,

(e) Decide on the suspension of external quality assurance procedures (including certification).

3) The chairperson reports the commission’s activities and resolutions to the Foundation Board.

4) The Accreditation Commission may establish further committees.

§ 13 – Composition of the Accreditation Commission

1) The Accreditation Commission shall consist of seven members:

(a) Five members of the scientific staff of higher education institutions (universities, universities of applied sciences and other types of higher education institutions),

(b) One member shall be a representative of professional practice,

(c) One member shall be a student.

2) The Accreditation Commission shall be supplemented by up to 20 associated members who, due to their academic competence, shall support the members mentioned under § 13 (1) in the selection of experts.

3) The members according to (1)(a) are supposed to have experience in the development and design of study programmes as well as in the field of external quality assurance. Furthermore, for each type of higher education institution, at least 50 %
of the members shall have experience in the field of the governance of higher education institutions and internal quality assurance of higher education institutions, i.e. particular experience in the management of higher education institutions and in the quality assurance of teaching and learning. The commission shall be composed such that it covers important scientific fields. The student members should have experience in university self-government. The members according to (1)(c) should be active students who can contribute to the commission’s work on the basis of their experiences in everyday university life. At least two members according to (1)(a) should be foreign experts.

(4) The members are free from directives while carrying out their tasks. The compliance with formal specifications and corresponding directives of the Foundation Board is excepted.

(5) The members shall be appointed for a period of three years. Members may be re-appointed twice. Resigned members are to be replaced immediately.

(6) The members shall receive an adequate expense allowance.

§ 14 – Meetings of the Accreditation Commission

(1) The Accreditation Commission shall adopt rules of procedure.

(2) Provisions on representation shall ensure that all member groups (types of higher education institution, scientific groups, students and professionals) are adequately represented in the meetings.

§ 15 – Tasks of the Appeals Commission

(1) To guarantee a well-ordered, uniform and independent appeals procedure for formal objections against resolutions and decisions made by the Accreditation Commission or, if applicable, the technical committees or the Preliminary Examination Committee, an Appeals Commission shall be established.

(2) The Appeals Commission is an independent organ of the Foundation. Neither the Foundation Board nor the Accreditation Commission has the authority to issue directives to the commission. The commission only has a formal obligation to report to the Foundation Board.

(3) The Appeals Commission reviews formal objections against resolutions and decisions regarding national and international accreditation, certification as well as evaluation procedures.

§ 16 – Composition of the Appeals Commission

(1) The Appeals Commission shall consist of four voting members:

(a) One representative of an institution entrusted with quality assurance in higher education, one representative of another domestic external quality assurance agency, one representative of a foreign external quality assurance agency,

(b) One student representative.

(2) The Appeals Commission shall be chaired by the representative of an institution entrusted with quality assurance in higher education.
The members shall be appointed by the Foundation Board. To ensure the efficiency of the Appeals Commission, the Foundation Board shall additionally appoint two substitute members.

The members of the Appeals Commission shall be appointed for a period of three years. Members dropping out shall be replaced immediately.

§ 17 – Meetings of the Appeals Commission
The Appeals Commission shall adopt rules of procedure.

§ 18 – The Chief Executive Officer of the Foundation
(1) The Chief Executive Officer of the Foundation conducts the regular business of the Foundation. He / she prepares the resolutions of the Foundation Board and of the Accreditation Commission and implements them.
(2) The Chief Executive Officer of the Foundation shall act as a managing director and shall be appointed by the Foundation Board.
(3) The term of office of the Chief Executive Officer of the Foundation shall be limited in time and usually shall expire after five years. Reappointment is permissible. The appointment may be cancelled upon good cause at any time.
(4) The Chief Executive Officer shall conduct the business of the Foundation on the basis of a service contract concluded with the Foundation Board and shall receive an adequate remuneration.
(5) The Chief Executive Officer of the Foundation shall have a deputy. The deputy shall be appointed on proposal of the Foundation Board from among the scientific advisors and shall substitute the Chief Executive Officer of the Foundation in all matters if the latter is unable to attend. The term of office of the deputy shall usually be three years. Reappointment is permissible. The appointment may be cancelled upon good cause at any time by the Foundation Board by common accord with the Chief Executive Officer of the Foundation.
(6) The deputy shall not receive a remuneration for exercising this function.

§ 19 – External Representation of the Foundation
(1) The Chief Executive Officer of the Foundation represents the Foundation in and out of court.
(2) The chairperson of the Foundation Board represents the Foundation vis-à-vis the Chief Executive Officer of the Foundation.

III. Administration

§ 20 – Administration, Accounting, Auditing and Formal Approval
(1) For administration and auditing, the statutory provisions of the state of Baden-Württemberg apply, in particular the budgetary regulations (Landeshaltsordnung, LHO) for the state and the associated administrative regulations as
well as the foundation act (Stiftungsgesetz) for Baden-Württemberg in its latest amended version. The financial year is the calendar year.

(2) It is the duty of the Chief Executive Officer of the Foundation to render annual accounts of the revenue and expenditure as well as of the assets and liabilities of the Foundation. Without prejudice to the right of examination by the audit court (Rechnungshof) of Baden-Württemberg, the annual financial statement shall be audited by a chartered accountant or an auditing firm. The auditor shall be appointed by the Foundation Board.

(3) The accounting for the assessment procedures for the preparation of accreditations at the Foundation for the Accreditation of Study Programmes, for certification procedures and international procedures of external quality assurance shall be done separately as a proof for the self-supporting organisation.

(4) At the end of the calendar year, a business report including a financial statement shall be presented to the Foundation Board, the governmental authority responsible for the Foundation, the financial contributor and the audit office.

(5) For the formal approval, § 109 (3) of the budgetary regulations for the state of Baden-Württemberg shall apply. The Foundation Board shall act as the decision-making body.

§ 21 – Amendments to the Statutes and Winding Up of the Foundation

(1) If the Foundation's purpose can no longer be achieved, if the Foundation's existence no longer seems sensible in view of fundamental changes in circumstances or if there are new developments, the Foundation Board may give the Foundation a new purpose, decide a merger with other foundations or decide its winding up.

(2) Resolutions resulting in amendments to the Statutes or the winding up of the Foundation only take effect after they have been approved by the governmental authority responsible for the Foundation.

(3) In the event of dissolution or winding up of the Foundation, or if purposes that qualify for tax relief cease to apply, the assets of the Foundation shall pass to the state of Baden-Württemberg, which is obligated to employ them directly and exclusively for the promotion of science and art.

§ 22 – Entry into Force

These Statutes shall enter into force on the day following their publication in the Law Gazette of the state of Baden-Württemberg.