

# **New England Foundation for the Arts, Incorporated--Bylaws**

Adopted October 25, 1985  
Amended January 14, 1988  
Amended January 25, 1990  
Amended October 28, 2004  
Amended July 9, 2008  
Amended June 21, 2018

## **Section 1. NAME, PURPOSE, LOCATION, CORPORATE SEAL, FISCAL YEAR**

- 1.1 Name and Purposes – The name and purposes of the corporation shall be as set forth in the articles of organization (the “Articles”).
- 1.2 Location – The principal office of the corporation in the Commonwealth of Massachusetts shall initially be located at the place set forth in the Articles. The directors may change the location of the principal office in the Commonwealth of Massachusetts effective upon filing a certificate with the Secretary of the Commonwealth.
- 1.3 Corporate Seal – The directors may adopt and alter the seal of the corporation.
- 1.4 Fiscal Year – The fiscal year of the corporation shall end May 31 in each year.

## **Section 2. BOARD OF DIRECTORS**

- 2.1 General Powers – All corporate powers shall be exercised by or under the authority of the Board of Directors. The affairs of the corporation shall be managed under the direction of the Board of Directors. The Board of Directors shall employ a qualified staff to manage and operate the corporation and shall delegate the authority necessary to said staff to carry out the corporate purposes, all subject to the ultimate authority of the Board of Directors.
- 2.2 Number, Tenure, and Qualifications – The number of directors of the corporation shall be twenty-four (24), or such greater or lesser number as may be established by action of the Board of Directors at any official meeting. Subject to the provisions of Section 2.3, six (6) of those directors shall be the directors of the six New England state arts agencies by virtue of their positions and so long as their respective agencies remain members of the corporation in its capacity as a “regional group,” as described in Article 2 of the Articles. The Board of Directors may elect to have staggered terms for its elected members so that one-third of the Board is elected at each annual meeting. Each elected director on the Board shall serve for a term of three (3) years and shall be limited to serving three consecutive three (3) year terms, unless otherwise designated by the Board of Directors and until his or her successor is elected and qualified.

The Board of Directors may take action from time to time to create additional classes of directors, with voting rights or without voting rights. The elected directors shall be persons esteemed for their beneficial influence in one or more of the states served, for their knowledge of or active concern for the arts, or for their administrative, managerial or other expertise.

- 2.3 Withdrawal of State Arts Agency – Any state arts agency may withdraw from participation in the corporation by declining to be represented on the Board of Directors, provided that any such withdrawal shall be effective only as of the last day of the fiscal year of the corporation following written notice to the corporation given by such agency at least one year prior to the date of withdrawal, and provided further that no such withdrawal or notice thereof shall (i) affect the validity of any action taken by the corporation prior to such withdrawal, (ii) relieve such withdrawing agency of the obligation to meet its share of the cost of any such action, or (iii) operate to diminish the corporation's entitlement to receive any payments that were scheduled to be made to the corporation by such withdrawing agency or by any other agency or person, including the National Endowment for the Arts, during or on account of the fiscal year ending on the effective date of withdrawal.

If a director of the corporation who is also a director of a state arts agency elects to resign as a corporation director, such director may elect to serve the corporation in a mutually agreeable advisory capacity and such resignation shall itself have no effect on the respective state arts agency's continued participation in the corporation in its capacity as a regional group; provided, however, that upon the resignation of such director, the respective state arts agency shall not appoint a substitute director, but the corporation shall use its best efforts to locate and seek the appointment of a substitute director residing in the same state as the resigning director to fill the vacancy created by such resignation.

- 2.4 Annual Meetings – The annual meeting of the corporation shall be held on such date during the summer months (June, July and August) as may be fixed by the Board of Directors, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of the directors shall not be held in the month designated for the annual meeting of the Board of Directors, the Board of Directors shall cause the election of directors to be held at the adjourned date. The annual meeting may be held at the principal office of the corporation or at such other place within the United States as the chair or directors shall determine. Notice of the specific date of the meeting and of any change of the date fixed in these bylaws for the annual meeting shall be given to all directors at least thirty (30) days in advance of the meeting date.

## 2.5 Committees

The Executive Committee – The Executive Committee shall consist of the Chair, Vice Chair, Secretary, Treasurer and not less than two other directors elected by the Board of Directors at the annual meeting. Whenever the Board is not in session, the Executive Committee shall have and may exercise all the powers of the Board of Directors with reference to the conduct of the corporation; except those powers which may not be delegated by law, the Articles, or these bylaws.

The Trustees Committee – The Trustees Committee shall consist of at least three directors. The Chair shall select a chair of the Trustees Committee and two other directors to serve on the Trustees Committee. The Trustees Committee shall submit nominations to the Board of Directors for persons to serve as officers at least fifteen (15) days prior to the annual meeting. The Trustees Committee shall submit nominations to the members for persons to serve as elected directors at least fifteen (15) days prior to the annual meeting.

Additional Committees – The directors may establish other standing committees and a procedure for appointment of such committee members who shall serve at the directors' pleasure. The Chair may establish and name members to ad hoc committees, but may not delegate to them the power of the directors.

Committee Member Vacancy – In the event that a vacancy occurs in a committee by reason of resignation or otherwise, an interim replacement may be named by the same authority as for ordinary appointment.

Suspension or Removal – Any officer or director elected by the Board of Directors may be removed by the Board of Directors, with or without cause, by the vote of two-thirds of the directors then in office whenever in its judgment the best interests of the corporation would be served thereby.

- 2.6 Resignation – A director may resign by delivering his or her written resignation to the Chair, Vice Chair, Treasurer, or Secretary of the corporation, to the directors at a meeting of directors or to the corporation at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at some other time) and acceptance thereof shall not be necessary to make it effective unless it so states.

Vacancies – Any vacancy in the Board of Directors resulting from the suspension, removal, resignation, disability or death of any director shall be communicated to the Board of Directors. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of that director's predecessor in office. Any directorship to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting or at a special meeting of the Board of Directors called for that purpose.

- 2.7 Special Meetings - Special meetings of the Board of Directors may be held at any time or place whenever called by the Chair, Vice Chair, Treasurer or Secretary, or by a majority of directors other than those holding such offices.
- 2.8 Meeting by Telecommunication - Members of the Board of Directors or any committee elected thereby may participate in a meeting of such board or committee by means of a conference telephone or other remote communications technology by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at the meeting.
- 2.9 Call and Notice
- Regular and Special Meetings – Reasonable notice of the time and place of regular and special meetings of the directors shall be given to each director either by first class mail or electronic mail. Such notice need not specify the purposes of a meeting unless otherwise required by law, the Articles or these bylaws, or unless there is to be considered at the meeting contracts or transactions of the corporation with interested persons, amendments to these bylaws, an increase or decrease in the number of directors, or removal or suspension of a director. Reasonable notice shall be no less than 15 days. Notice of a meeting need not be given to a director if a written waiver of notice, executed by the director, before or after the meeting, is filed with the records of the meeting, or to any director who attends a meeting without protesting the lack of notice prior to the meeting.
- 2.10 Quorum – At any meeting of the directors, fifty percent (50%) of the directors then in office shall constitute a quorum. Any meeting may be adjourned by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.
- 2.11 Action by Vote – Unless otherwise provided by law, by the Articles, or by these bylaws, when a quorum is present at a meeting, a majority of the directors present and voting shall decide any question, including election of officers.
- 2.12 Action by Writing – Any action required or permitted to be taken at any meeting of the directors may be taken without a meeting if all the directors consent to the action in writing, or otherwise deliver their written consents by electronic transmission, and the consents are filed with the records of the meetings of the directors. Such consents shall be treated for all purposes as votes at a meeting. Electronic transmission of consents shall be valid as long as all directors have access to electronic mail and all directors have informed the Chair of their correct email address for purposes of correspondence and electronic voting.
- 2.13 Compensation – Directors shall be precluded from receiving compensation for their services but shall be entitled to receive such amount, if any, as the directors may from time to time determine to cover expenses of attendance at meetings.

### Section 3. OFFICERS AND AGENTS

- 3.1 Number and Qualification – The officers of the corporation shall be Chair, Vice Chair, Treasurer, Secretary, and such other officers, if any, as the directors may determine. The corporation may also have such agents, if any, as the directors may appoint. The Secretary shall be a resident of Massachusetts unless the corporation has a resident agent duly appointed for the purpose of service of process. A person may hold more than one office at the same time.
- 3.2 Elections – The Chair, Vice Chair, Treasurer, and Secretary shall be elected annually by the directors to hold office until their successors are chosen. Other officers, if any, may be elected by the directors at any time.
- 3.3 Chair – The Chair shall be the chief officer of the corporation and, subject to the control of the directors, shall have general charge and supervision of the affairs of the corporation. The Chair shall preside at all meetings of the directors, except as the directors otherwise determine.
- 3.4 Vice Chair – In the absence of the Chair or the Chair's inability or refusal to act, the Vice Chair shall perform the duties of the Chair, and when so acting, shall have all the powers of and be subject to all the restrictions upon, the Chair. The Vice Chair shall perform such other duties as from time to time may be assigned to the Vice Chair by the Chair or by the Board of Directors.
- 3.5 Treasurer – The Treasurer shall have oversight responsibility for the financial affairs of the corporation and shall serve as a member of the Finance Committee.
- 3.6 Secretary – The Secretary shall keep or cause to be kept the minutes of all meetings of the Board and of the Executive Committee. The Secretary, in addition to statutory duties, shall have oversight responsibility for the keeping and authentication of the records of the corporation including the permanent record of all meetings of the Board of Directors and the Executive Committee and shall have charge of all additional books and records as the Board of Directors may so direct. If the Secretary is absent from any meeting of members or directors, a temporary Secretary chosen at the meeting shall exercise the duties of the Secretary at the meeting.
- 3.7 Resignation – An officer may resign by delivering his or her written resignation to the Chair, Vice Chair, Treasurer, or Secretary of the corporation, to a meeting of the directors or the corporation at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at some other time), and acceptance thereof shall not be necessary to make it effective unless it so states.

- 3.8 Vacancies – If the office of any officer becomes vacant, the directors may elect a successor at a duly noticed meeting. Each such successor shall hold office for the unexpired term, and in the case of the Chair, Vice Chair, Treasurer, and Secretary until his or her successor is elected and qualified, or in each case until he or she sooner dies, resigns, is removed or becomes disqualified.
- 3.9 Executive Director – The directors shall appoint an Executive Director. The Executive Director shall be the principal day-to-day operating officer of the corporation, with such duties as may be assigned from time to time by the directors.

#### Section 4. EXECUTION OF PAPERS

Except as the directors may generally or in particular cases authorize the execution thereof in some other manner, all deeds, leases, transfers, contracts, bonds, notes, checks, drafts, and other obligations made, accepted, or endorsed by the corporation shall be signed by the Chair or by the Treasurer.

Any recordable instrument purporting to affect an interest in real estate, executed in the name of the corporation by two of its officers, of whom one is the Chair and the other is the Treasurer, shall be binding on the corporation in favor of a purchaser or other person relying in good faith on such instrument notwithstanding any inconsistent provisions of the Articles, bylaws, resolutions, or votes of the corporation.

#### Section 5. PERSONAL LIABILITY

The directors and officers of the corporation shall not be personally liable for any debt, liability, or obligation of the corporation. All persons, corporations, or other entities extending credit to, contracting with, or having any claim against the corporation, may look only to the funds and property of the corporation for the payment of any such contract or claim, or for the payment of any debt, damages, judgment or decree, or of any money that may otherwise become due or payable to them from the corporation.

#### Section 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Indemnification – The corporation shall indemnify each director, officer, employee and other agent and each person who formerly served in such capacity and each person who serves or may have served at the request of the corporation as a director, officer, employee or other agent of another organization in which the corporation has an interest against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him or her in connection with any action, suit or proceeding to which he or she may be made a party, or in which he or she may become involved, by reason of his or her being or having been a director, officer, employee or other agent of the corporation, or, at its request of any such other organization, whether or not he or she is still serving in such capacity at the time of incurring such expenses or liabilities, except in respect to matters as to which he or she shall be finally adjudged in such action, suit or

proceeding not to have acted in good faith in the corporation, or to be liable for gross negligence or willful malfeasance; provided, that in the event of a settlement of any such action, suit or proceeding, indemnification shall be provided only in connections with such matters covered by the settlement as to which the corporation is advised by written opinion or independent legal counsel that the directors, officer, employee or other agent to be indemnified did not commit a breach of duty owed to the corporation and only if a majority of disinterested directors approves the settlement and indemnification as being in the best interest of the corporation. Such indemnification may include payment by the corporation of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, upon receipt by the corporation of an undertaking by the person indemnified to repay such payment if he or she shall be adjudicated to be not entitled to indemnification hereunder. The foregoing right of indemnification shall be in addition to and not exclusive of any other rights to which any agreement or pursuant to any vote of the Board of Directors or otherwise.

#### Section 7. AMENDMENTS

These bylaws may be altered, amended, or repealed in whole or in part by vote of a majority of the directors then in office.

#### Section 8. PROCEDURE OF MEETINGS

The rules contained in the current edition of Robert's Rules of Order, Newly Revised, shall govern the corporation's meetings in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the corporation may adopt.