

CANADA COUNCIL FOR THE ARTS

By-Laws

By-laws for the general conduct and management of the activities and affairs of the
CANADA COUNCIL FOR THE ARTS

October 4, 2017



Canada Council
for the Arts

Conseil des arts
du Canada

BY-LAW Number 1
By-law for the general conduct and management of the activities and affairs of the
Canada Council for the Arts

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BY-LAWS

ARTICLE 1 DEFINITIONS AND INTERPRETATION

- 1.1 Definitions. In the By-laws of the Council, unless the context otherwise requires, capitalized terms shall have the following meanings:
- (a) “Act” means the *Canada Council for the Arts Act*, R.S.C, 1985, c. C-2 and other instruments made under that Act, as amended from time to time;
 - (b) “Board” means the governing body of the Council and includes each of the Board Members;
 - (c) “Board Member” means a member of the Board and, for greater certainty, means a “member”, within the meaning of the Act, who is appointed by the Governor in Council in accordance with the Act;
 - (d) “By-law” means any By-law of the Council adopted by the Board;
 - (e) “Chair” means the Chairperson of the Council appointed by the Governor in Council in accordance with the Act;
 - (f) “Council” means the corporation known as the Canada Council for the Arts, as established under the Act;
 - (g) “CCUNESCO” means the Canadian Commission for UNESCO established by the Council in conformity with Article VII of the Constitution of the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the Orders in Council (Privy Council 1957-831; Privy Council 2006-601) enacted by the Governor in Council pursuant to subsection 8(2) of the Act;
 - (h) “Director and CEO” means the Director of the Council appointed by the Governor in Council, in accordance with the Act, to act as the chief executive officer of the Council;
 - (i) “FAA” means the *Financial Administration Act*, R.S.C 1985, c. F-11, and other instruments made under that Act, as amended from time to time;
 - (j) “Policy” means any statement of principles adopted by the Board for the administration, management or control of the Council’s business, activities, affairs or property;
 - (k) “PLR Program” means the Public Lending Right Program established under the aegis of the Council by Cabinet at the meeting of March 26, 1986 (9-0147-86 RD); and
 - (l) “Vice-Chair” means the Vice-Chairperson of the Council appointed by the Governor in Council in accordance with the Act.

- 1.2 Interpretation. In the interpretation of this By-law, unless the context otherwise requires, the following rules shall apply:
- (a) words importing the singular number only shall include the plural and vice versa and words importing the masculine only shall include the feminine and vice versa; and
 - (b) the headings used in this By-law are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions of this By-law or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions.
- 1.3 Invalidation of any Provisions of this By-law. The invalidity or unenforceability of any provision of this By-law shall not affect the validity or enforceability of the remaining provisions of this By-law.

ARTICLE 2 GENERAL PROVISIONS

- 2.1 Head Office. The head office of the Council shall be in the City of Ottawa, in the province of Ontario.
- 2.2 Corporate Seal. The Council may have a corporate seal in the form approved from time to time by the Board. If the Council has a corporate seal, the Corporate Secretary of the Council shall be the custodian of it.
- 2.3 Auditor and Fiscal Year.
- (a) The accounts and financial transactions of the Council shall be audited annually by the Auditor General of Canada and a report of the audit shall be made to the Council and to the member of the Queen's Privy Council for Canada designated under the Act.
 - (b) The fiscal year of the Council shall end on March 31st of each year or on such other day in each year as the Board may from time to time determine.
- 2.4 Execution of Documents.
- (i) Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Council may be signed by any two (2) of the Chair, the Vice-Chair, the Director and CEO, the Chief Financial Officer and the Corporate Secretary.
 - (ii) The Board may also from time to time direct the manner in which and the person or persons by whom a particular document or type of document shall be executed.
- 2.5 Banking. The banking business of the Council shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the Board may designate, appoint or authorize from time to time by resolution. The banking business or

any part of it shall be transacted by one or more officers of the Council and/or other persons as the Board may by resolution from time to time designate, direct or authorize.

- 2.6 Conflicts of Interest and Ethics. The Board shall adopt a Policy on conflicts of interest and ethics that is consistent with applicable legislation, including the *Conflict of Interest Act*, S.C. 2006, c. 9, s. 2. Such Policy shall be reviewed regularly and amended as necessary to remain current and compliant with legal requirements.
- 2.7 Rules of Order. The meetings of the Board shall be conducted, subject always to the By-laws and Policies of the Council, in accordance with the most recent edition of *Robert's Rules of Order*, unless following such rules of order is, in the discretion of the chair of the meeting, impractical given the requirements of the By-laws and the Policies.

ARTICLE 3 BOARD MEMBERS

- 3.1 Duty of Oversight. Subject to the Act, the Board shall supervise the management of the activities and affairs of the Council. The Board shall have such other duties as are set out in this By-law and in the Council's Policies.
- 3.2 Board Composition. In accordance with the Act, the Board shall be comprised of:
- (a) The Chair;
 - (b) The Vice-Chair; and
 - (c) not more than nine (9) other Board Members.
- 3.3 Board Member Terms. In accordance with the Act,
- (a) the Chair and Vice-Chair shall be appointed for such terms, not exceeding five (5) years each, as are fixed by the Governor in Council;
 - (b) each of the other Board Members shall be appointed for a term of four (4) years; and
 - (c) a person who has served two (2) consecutive terms as Chair, as Vice-Chair or as a Board Member is not, during the twelve months following the completion of the second term, eligible to be reappointed to the Board in the same capacity;
 - (d) a Board Member may resign from their position by giving written notice to the Chair, and such resignation shall become effective upon receipt of or on such date specified in the notice.
- 3.4 Remuneration and Expenses. Any remuneration, allowance or reimbursement of expenses of the Chair, the Vice-Chair and the Board Members shall be paid in accordance with the Act and the Policies of the Council.

ARTICLE 4
MEETINGS OF THE BOARD

- 4.1 Place and Frequency of Meetings. In accordance with the Act, the Board shall meet at least three (3) times a year in the city of Ottawa on such days as are fixed by the Board and at such other times and places as the Board deems necessary.
- 4.2 Public meeting. In accordance with the FAA:
- (a) the Board shall hold a public meeting within fifteen (15) months after the day on which the last preceding public meeting was held.
 - (b) the Council shall publish a notice of the public meeting at least thirty (30) days before the day on which the meeting is to be held. The notice shall indicate the location, if any, and the date and time of the meeting, the means of participating in the meeting and how copies of the Council's most recent annual report may be obtained.
 - (c) one (1) or more Board Members and the Director and CEO shall participate in the meeting to answer questions from the public.
- 4.3 Calling of Meetings. Meetings of the Board may be called by the Chair or the Vice-Chair.
- 4.4 Right to Attend Board Meetings. The Director and CEO shall have the right:
- (a) to attend and, in a non-voting capacity, to participate in all meetings of the Board and in all committee meetings; and
 - (b) to receive notice of all Board meetings, packages and other information and reports that the Council delivers to the Board Members for the purpose of such meeting.
- 4.5 Notice of Meeting.
- (a) Notice of the time and place for the holding of a meeting of the Board shall be given in writing to every Board Member and the Director and CEO not less than seven (7) days before the time when the meeting is to be held, provided that if the Chair considers it a matter of urgency that a meeting of the Board be convened as soon as possible, he or she may give or cause to be given notice of a meeting by telephone or other electronic means not less than twenty-four (24) hours before the meeting.
 - (b) A notice of a Board meeting shall contain sufficient information to permit the Board member to form a reasoned judgment on the decision to be taken.
 - (c) Notice of a meeting of the Board shall not be necessary if all of the Board Members are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting.
 - (d) Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting.

- (e) The accidental omission to give a notice to any person entitled to receive such notice, or the non-receipt of any notice by any such person where the Council has provided notice in accordance with the By-laws or any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

4.6 Quorum.

- (a) Subject to subsection 4.6(b) of this By-law, a majority of the number of Board Members in office constitutes a quorum at any meeting of the Board. For the purpose of determining quorum, a Board Member may be present in person, or, if authorized under section 4.9 of this By-law, by teleconference or other electronic means.
- (b) No Board meeting may occur in the absence of both the Chair and the Vice-Chair when they are in office. If, in the course of a properly constituted meeting, both the Chair and Vice-Chair become absent, the meeting shall adjourn.
- (c) If a quorum is not present at the opening of a meeting of the Board, the Board Members present may adjourn the meeting to a fixed time and place but may not transact any other business.

4.7 No Alternate Board Members. No person shall act for an absent Board Member at a meeting of the Board.

4.8 Decision by other means. The Chair may authorize an electronic vote by email or facsimile if a question needs to be acted upon by the Board in between physical meetings. In the case of an electronic vote, a quorum shall be constituted when at least two-thirds of the Board Members cast a vote by email or facsimile. Any action taken by such electronic means shall be ratified by the Board at its next meeting and recorded into the minutes of that meeting.

4.9 Participation at Meeting by Telephone or Electronic Means. A Board Member may participate in a meeting of Board Members or of a committee of Board Members using telephonic, electronic or another communication facility that permits all participants to communicate adequately with each other during the meeting. A Board Member participating in the meeting by such means shall be deemed to have been present at that meeting.

4.10 Votes to Govern.

- (a) At all meetings of the Board, every question shall be decided by a majority of the votes cast on the question. Each Board Member shall have one vote.
- (b) All votes at any such meeting shall be taken by ballot if so demanded by any Board Member present but, if no demand be made, the vote shall be taken in the usual way by a show of hands or by other means when necessary.
- (c) A declaration by the chair of the meeting that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

- (d) In case of an equality of votes, the chair of the meeting shall have the right to cast a second or casting vote, but shall not be compelled to do so. In the event of an equality of votes and the chair of the meeting does not cast a second vote, the resolution or motion put to such a vote shall be deemed defeated.

ARTICLE 5 COMMITTEES

5.1 Executive Committee.

- (a) There shall be an Executive Committee of the Council comprised of the Chair, the Vice-Chair, the Chair of the Governance and Nominating Committee, and the Chair of the Audit and Finance Committee, all of whom shall have the right to vote. The Director and CEO shall also be a member of the Executive Committee, but in a non-voting capacity.
- (b) The Executive Committee shall have the right to exercise the powers of the Board between meetings of the Board, except that the Executive Committee shall not have the authority to:
- (i) approve any Policy, strategic plan, corporate plan, budget, annual report, financial statements or grants of the Council, or CCUNESCO;
 - (ii) adopt, amend or repeal any By-law; or
 - (iii) exercise any other power or make any other decision on behalf of the Board that has been expressly prohibited by Policy or resolution of the Board.
- (c) The Executive Committee shall be subject to such rules and shall perform such other functions as are assigned to it by resolution of the Board or by Policy.

5.2 Audit and Finance Committee.

- (a) There shall be an Audit and Finance Committee of the Council comprised of not less than three (3) Board Members, who shall be voting members of such committee, none of whom may be officers or employees of the Council.
- (b) In accordance with the FAA, the Audit and Finance Committee shall:
- (i) review, and advise the Board with respect to, the financial statements that are to be included in the annual report of the Council;
 - (ii) oversee any internal audit of the Council that is conducted pursuant to the FAA;
 - (iii) review, and advise the Board with respect to, the Auditor General of Canada's annual report of the Council; and
 - (iv) if the Council is undergoing a special examination under the FAA, review, and advise the Board with respect to, the plan and reports referred to in the FAA.

- (c) The Audit and Finance Committee shall also:
 - (i) advise the Board with respect to the approval of annual budgets, financial planning and overall financial status and well-being of the Council; and
 - (ii) be subject to such rules and shall perform such other functions as are assigned to it by resolution of the Board or by Policy.

5.3 Governance and Nominating Committee.

- (a) There shall be a Governance and Nominating Committee of the Council comprised of not less than three (3) Board Members, who shall be voting members.
- (b) The Governance and Nominating Committee shall be advisory to the Board and shall be responsible for ongoing review and recommendations with respect to governance to enhance the quality and future viability of the Board.
- (c) The Governance and Nominating Committee shall be subject to such rules and shall perform such other functions as are assigned to it by resolution of the Board or by Policy.

5.4 Investment Committee.

- (a) There shall be an Investment Committee of the Council comprised of:
 - (i) two (2) Board Members, one (1) of whom shall be a member of the Audit and Finance Committee;
 - (ii) up to eight (8) external individuals having experience in institutional trust fund investing and fund governance, who shall be appointed by the Board; and
 - (iii) such other persons as the Board may appoint from time to time.
- (b) The Investment Committee shall be advisory to the Board and shall be responsible for ongoing oversight, review and recommendations with respect to the Council's endowment fund and other funds.
- (c) The Investment Committee shall be subject to such rules and shall perform such other functions as are assigned to it by resolution of the Board or by Policy.

5.5 Other Committees. The Board may from time to time appoint any other committee or advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the Board shall see fit. Any such committee shall be subject to such rules and shall perform such other functions as are assigned to it by resolution of the Board or by Policy.

5.6 Remuneration and Expenses. Any remuneration, allowance or reimbursement of expenses of any committee member shall be paid in accordance with the Act and the Policies of the Council.

**ARTICLE 6
OFFICERS****6.1 Officers.**

- (a) The officers of the Council shall include:
 - (i) the Chair;
 - (ii) the Vice-Chair;
 - (iii) the Director and CEO;
 - (iv) the Corporate Secretary; and
 - (v) the Chief Financial Officer.
- (b) The Board may from time to time appoint such other officers and agents as it shall deem necessary who shall have such authority and shall perform such duties as may from time to time be prescribed by the Board. An officer must be either a Board Member or a full-time employee of the Council.

6.2 Chair.

- (a) The Chair shall:
 - (i) when present, preside at all meetings of the Board and the Executive Committee;
 - (ii) represent the Council and the Board as may be required or appropriate;
 - (iii) in accordance with the Act, submit to the member of the Queen's Privy Council for Canada designated by the Governor in Council for the purpose a report of all proceedings under the Act for that fiscal year; and
 - (iv) subject to the Act, perform such other duties and exercise such powers as are assigned to the Chair by resolution of the Board or by Policy.
- (b) The Chair shall have the right to attend and participate in all committee meetings. Except for the Executive Committee and unless the Board determines otherwise by resolution that the Chair should be a voting member of a committee, the Chair's participation in committee meetings shall be in a non-voting capacity and shall not count towards quorum.

6.3 Vice-Chair.

- (a) The Vice-Chair shall:
- (i) assist the Chair in the exercise of his or her duties and, in the absence or disability of the Chair or if the Chair refuses to act, perform the duties and exercise the powers of the Chair; and
 - (ii) perform such other duties and exercise such powers as are assigned to the Vice-Chair by resolution of the Board or by Policy.
- (b) The Vice-Chair shall have the right to attend and participate in all committee meetings. Except for the Executive Committee and unless the Board determines otherwise by resolution that the Vice-Chair should be a voting member of a committee, the Vice-Chair's participation in committee meetings shall be in a non-voting capacity and shall not count towards quorum.

6.4 Director and CEO. The Director and CEO shall:

- (a) be responsible for the general and active administration, organization and management of the affairs of the Council and see that all directives and resolutions of the Board are carried into effect;
- (b) have the right to attend Board meetings in accordance with Section 4.4 of this By-law; and
- (c) perform such other duties and exercise such powers as are assigned to the Director and CEO by resolution of the Board or by Policy.

6.5 Corporate Secretary. The Corporate Secretary shall:

- (a) be retained as an employee of the Council on such terms as the Director and CEO deems appropriate and shall attend and be the secretary of all meetings of the Board and committees;
- (b) be the custodian of and maintain the corporate records of the Council in a manner compliant with applicable legislation and policies; and
- (c) perform such other duties and exercise such powers as are assigned to the Corporate Secretary by resolution of the Board, by Policy or by the Director and CEO.

6.6 Chief Financial Officer.

- (a) The Chief Financial Officer shall:
- (i) be retained as an employee of the Council on such terms as the Director and CEO deems appropriate and shall keep proper financial and accounting records in compliance with the Act and other legislative or regulatory requirements and

will be responsible for the deposit of money and the disbursement of funds of the Council; and

- (ii) perform such other duties and exercise such powers as are assigned to the Chief Financial Officer by resolution of the Board, by Policy or by the Director and CEO.
- (b) The Chief Financial Officer shall have the right to attend and participate in all meetings of the Audit and Finance Committee and the Investment Committee meetings in a non-voting capacity. The Chief Financial Officer's attendance at committee meetings shall not count towards quorum.

ARTICLE 7 PROTECTION OF BOARD MEMBERS, OFFICERS AND OTHERS

- 7.1 Indemnification. The Council will indemnify a present or former Board Member, officer, committee member, or employee of the Council, or a person who acts or acted at the Council's request as a director, member, committee member, trustee, administrator or officer of another entity or administrative body, and in each case, his or her heirs and legal representatives against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgement, that are reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved by reason of association with the Council.
- 7.2 Advance. The Council may advance moneys to an individual described in Section 7.1 of this By-law for the costs, charges and expenses of a proceeding referred to above. The individual shall repay the moneys if the individual does not fulfill the conditions of Section 7.3 of this By-law.
- 7.3 Conditions. The Council may not indemnify an individual under Section 7.1 of this By-law unless the individual:
- (a) acted honestly and in good faith with a view to the best interests of the Council or as the case may be, the best interests of the other entity for which the individual acted as director, member, trustee, administrator or officer at the Council's request; and
 - (b) in the case of any criminal or administrative action or proceeding that is sanctioned by a monetary penalty, the individual had reasonable grounds for believing that the individual's conduct was lawful.
- 7.4 Insurance. The Council shall purchase and maintain insurance for the benefit of an individual referred to in Section 7.1 of this By-law against any liability incurred by the individual:
- (a) in the individual's capacity as a Board Member or officer of the Council or committee member; or
 - (b) in the individual's capacity as a director, member, trustee, administrator or officer of another entity, if the individual acts or acted in that capacity at the Council's request.

**ARTICLE 8
BY-LAWS**

- 8.1 Making, Amending, Repealing. The Board may, by resolution carried by a two-thirds majority, make, amend or repeal any By-law that regulate the activities or affairs of the Council. No such By-law, amendment or repeal shall be effective unless prior notice of the proposed By-law, amendment or repeal was sufficiently given to each Board Member in advance of the meeting at which such proposal is made.
- 8.2 Previous Acts, etc.
- (a) Upon the enactment of this By-law, all previous By-laws of the Council shall be repealed. Such repeal shall not affect the previous operation of any By-law or affect the validity of any act done or right or privilege, obligation, or liability acquired or incurred under, or the validity of any contract or agreement made pursuant to any such By-law prior to its repeal.
 - (b) All Board Members, officers, and person acting under any By-Law so repealed shall continue to act as if appointed under the provisions of this By-law and all resolutions of the Board Members and of the Board with continuing effect passed under any repealed By-law shall continue as good and valid except to the extent inconsistent with this By-law and until amended or repealed.

ENACTED as the By-laws of the Council on the 4th day of October 2017.