

**AMENDED AND RESTATED BYLAWS
OF THE
SCHOOL FOR THE ARTS - NM**
Effective _____, 2009

**ARTICLE 1
OFFICE**

The principal office of the School for the Arts - NM shall be located in Santa Fe, New Mexico. The School for the Arts - NM may have such other offices, either within or without the State of New Mexico, as the business of the Institute may require from time to time.

**ARTICLE 2
NO MEMBERS**

The School for the Arts - NM shall have no members.

**ARTICLE 3
BOARD OF TRUSTEES**

3.1 General Powers. The business and affairs of the School for the Arts shall be managed by the Board of Trustees who shall serve the function of the board of directors of the Institute as provided in the New Mexico Nonprofit Corporation Act.

3.2 Number, Tenure and Qualifications. The number of Trustees serving on the Board of Trustees shall be not less than five (5) Trustees, not including the ex-officio members. Subject to that limitation, the number of Trustees shall be fixed by these Bylaws at fifteen (15) not including ex-officio members, but that number may be increased or decreased from time to time by action of the Board of Trustees without the necessity of an amendment to these Bylaws. No decrease shall have the effect of shortening the term of any incumbent Trustee. Trustees need not be residents of the State of New Mexico. The Trustees shall be divided into three (3) classes and each member of a class of Trustees shall be elected and hold office for a term of three (3) years and until a successor has been elected and qualified. Five persons were named in the Articles of Incorporation of the Institute to serve as the initial Board of Trustees of the Institute. At the organizational meeting of the Institute two of the initial Trustees shall be appointed to hold office for an initial term of three years, two shall be appointed to hold office for an initial term of two years and one shall be appointed to hold office for an initial term of one year. Thereafter, Trustees shall be elected at the annual meeting or a special meeting of the Board of Trustees.

3.3 Duties and Powers. The Board of Trustees shall have control and be responsible for the management of the business and affairs of the Institute. The Board of Trustees shall in all cases act as a Board, regularly convened and in the transaction of

business, the act of a majority of the Trustees who are present at a meeting in which a quorum is present shall be the act of the Board, except as otherwise provided by law, these Bylaws or the Articles of Incorporation. The Board of Trustees may adopt rules and regulations for the conduct of their meetings and the management of the Institute which they deem proper and which are not inconsistent with law or these Bylaws.

3.4 Annual and Regular Meetings. The date, time and place of the annual meeting of the Board of Trustees shall be set by the Board of Trustees and may coincide with the regular meeting of the Board for that quarter. A regular meeting of the Board of Trustees shall be held during the last calendar quarter of each fiscal year for the purpose of electing or appointing Trustees and officers for the coming year and for the transaction of any other business which may come before the meeting. The Board of Trustees may provide by resolution the time and place, either within or without the State of New Mexico for the holding of additional regular meetings without notice other than such resolution.

3.5 Special Meetings. Special meetings of the Board of Trustees may be called by or at the request of the Chair of the Board (the “Chair”) at any time. The Chair shall call a special meeting to be held not more than ten (10) days after the receipt of a written request for a special meeting made by at least one-half of the Trustees. The Chair may fix any place, either within or without the State of New Mexico as a place for holding any special meeting of the Board of Trustees.

3.6 Meetings by Telephone Conference Calls. Trustees or any members of any committee designated by the Bylaws or the Trustees may participate in a meeting of the Board of Trustees or such committee by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such a meeting by such means shall constitute presence in person at such meeting.

3.7 Action by Written Consent. Any action required by the New Mexico Nonprofit Corporation Act to be taken at a meeting of the Board of Trustees or any action which may be taken at a meeting of the Board of Trustees or of a committee, may be taken without a meeting if a written consent setting forth the action so taken is signed by all of the Trustees or all of the members of the committee, as the case may be. The signature of a Trustee or committee member may be affixed to a written consent provided that authorization for affixing the signature has been received from the Trustee or committee member by facsimile, electronic mail or other similar electronic transmission. The consent shall have the same effect as a unanimous vote.

3.8 Notice. Notice of any special meeting of the Board of Trustees or any committee shall be given at least ten (10) days prior to the meeting. Any Trustee may waive notice of any meeting. The attendance of a Trustee at any meeting shall constitute a waiver of notice of such meeting, unless a Trustee attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at a meeting nor the

purpose of a regular or special meeting of the Board of Trustees or any committee need be specified in the notice or waiver of notice of such meeting.

3.9 Quorum. A quorum for the transaction of business at any regular or special meeting shall consist of no less than one-half (1/2) of the number of Trustees. A quorum, once attained at a meeting, shall be deemed to continue until adjournment notwithstanding a voluntary withdrawal of enough Trustees to leave less than a quorum. The act of the majority of the Trustees present at a meeting at which a quorum is present, unless otherwise provided by law, these Bylaws or the Articles of Incorporation, shall be the act of the Board of Trustees. If less than a majority of the Trustees are present at any meeting, a majority of the Trustees present may adjourn the meeting from time to time without further notice.

3.10 Manifestation of Dissent. A Trustee who is present at a meeting of the Board of Trustees at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless dissent of the Trustee is entered in the minutes of the meeting or unless the Trustee gives notice of his or her dissent to such action to the person acting as secretary of the meeting. The right to dissent shall not apply to a Trustee who voted in favor of such action.

3.11 Vacancies. Any vacancy occurring in the Board of Trustees or any trusteeship to be filled by reason of an increase in the number of trustees may be filled by the affirmative vote of a majority of the Board of Trustees. A trustee elected to fill a vacancy shall be elected for the unexpired term of the vacant office. Any trusteeship to be filled by reason of an increase in the number of trustees shall be filled by the Board Trustees for a term of office continuing only until the expiration of the term of the class of trustees to which the trusteeship is assigned.

3.12 Resignation and Removal. Any Trustee may resign from office at any time by delivering a written notice of resignation to the office of the Institute and such resignation will take effect immediately without acceptance. Any Trustee or Trustees may be removed from office at a meeting of the Trustees called expressly for that purpose, with or without cause, by a vote of a three-fourths (3/4) majority of the Trustees.

3.13 Committees. The Board of Trustees may designate one or more committees, appoint the members of the committee and their terms as the Board of Trustees from time to time determines is in the best interests of the Institute. The Board of Trustees also may designate advisory committees and appoint advisory committee members to serve on Board committees or advisory committees. Advisory committees and advisory committee members shall not have the authority or power to act on behalf of the Board of Trustees. All committees shall have and exercise the authority granted them in the resolution adopted by the Board of Trustees, except as limited by the terms of this Section and these Bylaws. If an executive committee is formed, the power and authority granted to the executive committee shall exclude specifically the power and authority to act on behalf of the Board of Trustees between meetings of the Board. The Board of Trustees may designate other committees for the purposes of facilitating matters

of governance, finance, development, programming and of other matters as the Board of Trustees determines is in the best interests of the Institute. No committee nor any committee created under these Bylaws shall have the authority of the Board of Trustees to amend the Articles of Incorporation; to adopt a plan of merger or consolidation; to sell, lease, exchange or make other disposition of all or substantially all the property and assets of the School for the Arts - NM; to voluntarily dissolve the Institute or revoke any such dissolution; to amend the Bylaws of the Institute; to elect, appoint or remove any member of any committee or any trustee or officer of the Institute; to adopt a plan for the distribution of the assets of the School for the Arts - NM; or to alter or repeal any resolution of the Board of Trustees of the Institute which by its terms provides that it shall not be amended, altered or repealed by the committee. The designation of any committee and the delegation of authority to any committee shall not operate to relieve the Board of Trustees or any member thereof of any responsibility imposed by law.

3.14 No Compensation. No Trustee shall receive any compensation for serving as a member of the Board, and no committee member shall receive any compensation for serving as a member of a committee. The Institute may reimburse a Trustee or committee member for reasonable expenses incurred in the performance of services as a Trustee or committee member in accordance with the financial policies of the School for the Arts - NM. Nothing in these Bylaws, however, shall be construed so as to preclude any Trustee or any committee member from serving the School for the Arts - NM in any other capacity, such as Executive Director, employee, or agent or and receiving compensation for such service.

3.15 Life Trustees. The Board of Trustees may appoint Life Trustees to serve at the will and pleasure of the Board where such an honor is appropriate in view of the substantial contributions an individual has made to the success of the School for the Arts - NM. Life Trustees will be invited to attend all meetings of the Board of Trustees but shall not have the right to vote on any matter submitted to the Board of Trustees. Life Trustees do not have the responsibilities and duties of regular trustees for the management of the business and affairs of the School for the Arts - NM.

ARTICLE 4 OFFICERS

4.1 Officers and Qualifications. The officers of the School for the Arts - NM shall consist of the Chair, Vice Chair, Executive Director, Secretary, Treasurer and such other officers, assistant officers and agents as are determined by the Board of Trustees from time to time, each of whom shall be elected by the Board of Trustees at the time and in the manner prescribed by these Bylaws. Any two or more offices may be held by the same person, except that the Chair and the Executive Director shall not be held by the same person. All officers and agents of the School for the Arts - NM as between themselves and the School for the Arts - NM shall have the authority and perform the duties in the management of the School for the Arts - NM as provided in these Bylaws or as determined by the resolution of the Board of Trustees not inconsistent with these Bylaws.

4.2 Term of Office. All officers of the School for the Arts - NM other than the Executive Director shall be elected for a two year term unless the Board of Trustees by resolution fixes a different term for any of the officers of the School for the Arts - NM. Each officer shall hold office until his or her successor has been duly elected and qualified, or until removed as hereinafter provided.

4.3 Vacancies. Except for the Executive Director, a vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Trustees for the unexpired portion of the term. Vacancies may be filled or new offices created and filled at any meeting of the Board of Trustees.

4.4 Removal. Any officer or agent may be removed by the Board of Trustees whenever in its judgment the best interest of the School for the Arts - NM will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person removed. Election or appointment of an officer or agent shall not of itself create contract rights.

4.5 Duties of the Chair. The Chair shall preside over the meetings of the Board of Trustees, be an ex-officio member of the committees designated by the Board, provide leadership to the Board of Trustees and perform such other duties as may be designated by the Board of Trustees. In the absence of the Chair, the duties of the Chair will be performed by the Vice-Chair.

4.6 Duties of the Executive Director. The Executive Director shall serve as the chief executive officer of the School for the Arts - NM, supervise and control the business and affairs of the School for the Arts - NM and perform the duties incident to the office of executive director and such other duties as may be designated by the Board of Trustees. The Executive Director shall serve as an ex-officio, non-voting member of the Board of Trustees.

4.7 Duties of the Secretary. The Secretary shall take appropriate action to assure that all corporate records of the School for the Arts - NM are kept current, including minutes of all meetings and all required notices of meetings and when authorized shall execute, attest and deliver documents of the School for the Arts - NM, and shall perform such other duties as may be designated by the Board of Trustees.

4.8 Duties of the Treasurer. The Treasurer shall take appropriate action to assure the accuracy and completeness of the books and records of account for the School for the Arts - NM and in the development of budget process and shall perform such other duties as may be designated by the Board of Trustees.

4.9 Duties of Other Officers. Other officers shall perform such duties and have such powers as may be designated by the Board of Trustees.

**ARTICLE 5
FISCAL YEAR**

The School for the Arts - NM shall have a fiscal year which begins on July 1 and ends twelve months later on June 30.

**ARTICLE 6
NOTICE**

Any notice request, consent or other communication required or permitted to be given under these Bylaws shall be given in writing by personal delivery, facsimile or electronic transmission with confirmation requested, reputable overnight courier service which provides receipts of deliveries or prepaid US certified mail (return receipt requested) addressed to the appropriate party at the then current address or facsimile number or electronic transmission address on file at the office of the School for the Arts – NM.

**ARTICLE 7
PROHIBITED ACTIVITIES**

7.1 No Inurement. No part of the earnings of the School for the Arts - NM shall inure to the benefit of or be payable to any Trustee, officer or any other private organization or individual, except that the School for the Arts - NM shall be authorized and empowered to pay reasonable compensation for services rendered and to make reasonable payments and distribution in furtherance of the mission and purposes of the School for the Arts - NM. No Trustee, officer or any other private person or individual will share in any of the assets of the School for the Arts - NM if the School for the Arts - NM dissolves. If the School for the Arts - NM dissolves, all of the net assets of the School for the Arts - NM will be distributed to another nonprofit tax exempt entity in accordance with the terms of dissolution set forth in the Articles of Incorporation of the School for the Arts - NM.

7.2 No Political Campaign Activity. The School for the Arts - NM shall not intervene in any manner in any political campaign, or carry on any other activities not permitted to be carried on by a corporation which is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, or by a corporation to which contributions are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986. The School for the Arts - NM may engage in those lobbying activities which are allowed under the Internal Revenue Code either by virtue of the not substantial activity test or by the Section 501(h) election, if applicable.

7.3 No Impermissible Activities. Notwithstanding any other provision of these Bylaws, the School for the Arts - NM shall not carry on any activities not permitted to be carried on (i) by an organization exempt from federal income taxation under Section 501(a) of the Internal Revenue Code, as an organization described in Section 501(c)(3) of the Internal Revenue Code or (ii) by an organization contributions to which are

deductible under Sections 170(c)(2), 2055(a)(2) or 2522(a)(2) of the Internal Revenue Code.

7.4 No Discrimination. The School for the Arts - NM shall not discriminate in any manner on the basis of age, sex, race, ethnicity, national origin, disability, gender, sexual orientation or preference.

ARTICLE 8 INDEMNIFICATION

8.1 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (collectively a "Proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a Trustee or officer of the School for the Arts - NM or while a Trustee of the School for the Arts - NM is or was serving at the request of the School for the Arts - NM as a Trustee, officer, employee or agent of another entity, including service with respect to employee benefit plans or trusts, whether the basis of such Proceeding is alleged action or inaction in an official capacity as Trustee, officer, employee or agent or in any other capacity while serving as a Trustee, officer, employee or agent shall be indemnified and held harmless by the School for the Arts - NM to the fullest extent authorized by the New Mexico Nonprofit Corporation Act as the same exists or may be hereafter amended (but, in the case of any such amendment, only to the extent that such amendment permits the School for the Arts - NM to provide broader indemnification rights that said law permitted the School for the Arts - NM to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a Trustee, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that except as provided in this Article, the School for the Arts - NM shall indemnify any such person seeking indemnification in connection with a Proceeding (or a part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Trustees of the School for the Arts - NM.

The right to indemnification conferred in this Article shall be a contract right and shall include the right to be paid by the School for the Arts - NM the expenses incurred in any such Proceeding in advance of its final disposition; provided, however, that if the New Mexico Nonprofit Corporation Act requires, the payment of such expenses incurred by a Trustee or officer in his or her capacity as a Trustee or officer of the School for the Arts - NM (and not in any other capacity in which service was or is rendered by such person while a Trustee or officer, including without limitation, service to employee benefit plans or trusts) in advance of the final disposition of a Proceeding, shall be made only upon delivery to the School for the Arts - NM of an undertaking by or on behalf of such Trustee or officer, to repay all amounts so advanced if it shall ultimately be determined that such Trustee or officer is not entitled to be indemnified under this Article or otherwise. The School for the Arts - NM may, by action of the Board of Trustees provide

indemnification and advance expenses to employees and agents of the School for the Arts - NM and others permitted to be indemnified by the New Mexico Nonprofit Corporation Act with the same scope and effect as the foregoing indemnification and advancement of expenses of Trustees and officers.

8.2 Right of Indemnitee to Bring Suit. If a valid claim pursuant to the first section of this Article is not paid fully by the School for the Arts - NM within ninety (90) days after a written claim has been received by the School for the Arts - NM, the claimant may at any time thereafter bring suit against the School for the Arts - NM to recover the unpaid amount of the claim, and, if successful in whole or in part, the claimant shall be entitled to be paid the expense of prosecuting such claim. It shall be a defense to any such action (other than an action to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the School for the Arts - NM) that the claimant has not met the standards of conduct which make it permissible under the New Mexico Nonprofit Corporation Act for the School for the Arts - NM to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the School for the Arts - NM. Neither the failure of the School for the Arts - NM (including its Board of Trustees or independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she had met the applicable standard of conduct set forth in the New Mexico Nonprofit Corporation Act, nor an actual determination by the School for the Arts - NM (including its Board of Trustees or independent legal counsel) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

8.3 Non-Exclusivity. The right to indemnification and payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the School for the Arts - NM's Articles of Incorporation, Bylaws, or agreements, or vote of disinterested Trustees or otherwise.

8.4 Insurance. The School for the Arts - NM shall maintain insurance, at its expense, or provide alternative financial arrangements, including but not limited to providing a trust, letter of credit or self-insurance, to protect itself and any Trustee, officer, employee or agent of the School for the Arts - NM or another entity affiliated with the School for the Arts - NM (including an employee benefit plan or trust) against any such expense, liability or loss, whether or not the School for the Arts - NM would have the power to indemnify such person against such expense, liability or loss under the New Mexico Nonprofit Corporation Act.

ARTICLE 9 RULES OF ORDER

The rules contained in the current edition of Robert's Rules of Order shall govern the conduct of meetings of the School for the Arts - NM in all cases to which they are

applicable and in which they are not inconsistent with these Bylaws and any special rules of the School for the Arts - NM.

**ARTICLE 10
AMENDMENTS**

These Bylaws may be altered, amended, or repealed, and new Bylaws may be adopted by a majority of the Board of Trustees present at any regular or special meeting of the Board at which a quorum is attained.

We hereby certify that the above and foregoing Amended and Restated Bylaws of the Art School for the Arts - NM, a New Mexico nonprofit corporation, are the Bylaws of this Corporation, adopted by the Board of Trustees, effective as of _____, 2009.

_____. Chair

_____, Secretary