

Proposed Bylaws Changes - American Booksellers Association

A Not-For-Profit Corporation

ARTICLE I (NAME AND PURPOSE)

- (1) **Name.** The name of the Association is the American Booksellers Association, Inc. (“Association” or “ABA”), a not-for-profit corporation organized under the laws of the State of New York.
- (2) **Location.** The principal office shall be within the State of New York.
- (3) **Purpose.** The purposes of the Association are to act as a professional association as defined in Section 501(c)(6) of the Internal Revenue Code of 1986, as amended, and include, but are not limited to, professional advancement, education, and advocacy on behalf of professional bookstores, such as the following:
 - (a) serving as the voice of professional independent bookstores and advocating on their behalf;
 - (b) providing professional independent bookstores with access to the information and services they require;
 - (c) providing opportunities for peer interaction; and
 - (d) promulgating policies and conducting activities for the betterment of all those individuals and firms involved in aspects of the professional independent bookselling industry.

ARTICLE II (MEMBERS)

- (1) **Classes of Members.** ABA’s general membership will be made up of businesses that primarily sell books, meaning more than 50 percent of their inventory must be in books and/or book media. There shall be classes of members, including Core Members and Bookstore Members, as set forth

in Article II, Sections (2) and (3). The Board of Directors may establish other classes of voting or non voting members.

- (2) **Core Members.** Any commercial establishment that is primarily engaged in the retail sale of new books (over 50 percent inventory) shall be eligible to become a Core Member. These include traditional bookstores, pop-up bookstores, mobile stores, book event businesses, and other non-traditional bookselling businesses that are primarily conducted in the physical (as opposed to digital) world.
- (3) **Bookstore Members.** Bookstore Members include Core Members and online-only bookstores that are primarily engaged in the retail sale of new books (over 50 percent inventory). Bookstore Members shall have the right to vote in accordance with these Bylaws. Each Bookstore Member shall appoint one person as its representative to cast votes on its behalf at meetings of the Association and a person or persons to receive Association communications. Bookstore Members with more than one retail outlet shall have only one voting representative.
- (4) **Applications for Members.** All applicants to become members shall complete and sign the application form provided by the Association and submit the application to the principal office of the Association. Admission decisions shall be made in accordance with policies and procedures of the Association.
- (5) **Resignation.** Any member may resign by filing a written resignation with the Association Board of Directors.

- (6) **Expulsion or Disciplinary Action.** Any member may be expelled for due cause as determined by a two-thirds vote of the Board of Directors. Failure to pay dues, fees, or assessments, a code of conduct violation, or either the failure to meet the membership criteria after an initial notification of delinquency or ~~failure~~ to maintain eligibility for membership, is presumed to be adequate reason for expulsion and does not require advance notice to the member or vote by the Board. Any member proposed for expulsion for other reasons is given advance written notice, including the reason for the proposed expulsion; the opportunity to contest the proposed expulsion in writing to the Board of Directors; and, if expelled, the final written decision of the Board. The expelled member may appeal the Board's decision in writing to a three-member panel appointed by the President. The decision of the Appeals Panel is final. The Board of Directors may take other member disciplinary actions, including, but not limited to, reprimand or suspension, in accordance with policies and procedures adopted by the Board from time to time.
- (7) **Continuing Obligations.** Resignation, reprimand, suspension, or expulsion does not relieve a member from liability for dues, fees, or assessments or other obligations accrued and unpaid as of the effective date of such actions.

ARTICLE III (DUES)

- (1) **Member Dues, Fees, and Assessments.** Dues, fees, and assessments are set by ABA staff and confirmed by the Board of Directors as part of the Board's budgetary responsibilities determined by the Board of Directors and are subject to verification policies and procedures established by the Board of Directors.
- (2) **Delinquency.** Any member who is delinquent in paying dues, fees, or assessments for a period of sixty days shall be notified of such failure and suspended as a member, and all member

rights and privileges shall cease. If all dues, fees, and assessments are not paid within the succeeding thirty days, the delinquent member is automatically expelled from the

Association.

- (3) Refunds. No fees, dues, or assessments shall be refunded.

ARTICLE IV (DIRECTORS)

- (1) **Directors.** The governing body of the Association is the Board of Directors, which has authority and is responsible for the supervision, control, and direction of the Association in accordance with Directors' fiduciary duties under applicable law.
- (2) **Composition of the Board of Directors.** The Board of Directors consists of 13 booksellers active in the day-to-day management and/or operation of member bookstores and includes from among the 13 Directors one President and either one or two Directors serving as Vice President/Secretary. The ABA Board will include at least four booksellers who are Black, Indigenous, or People of Color, at least two of whom are Black. The Board is elected by the Bookstore Members. The Board of Directors shall be representative of the Association's diversity.
- (3) **Election and Term of Office for Director.** Prior to each annual meeting of the Association, an election shall be held to choose members of the Board of Directors and, in odd numbered years, the President and Vice President/Secretary. If necessary, the election will also serve to fill any other vacancies. Directors serve staggered terms of three years. At least one Director elected each year shall not have been elected previously to the Board. Directors shall take office at the Board meeting held in conjunction with the Association's annual meeting. No Director shall have total service of more than two consecutive terms on the

Board, i.e., total service of six years, after which such person shall be ineligible to serve as a Director again for six years.

(a) Nominating Committee. The President, with the approval of the Board, shall select the Nominating Committee as a standing committee of the Association. The Nominating Committee shall present the Director candidates (including at least one alternate Director candidate) to the Board for its approval, which shall not be withheld absent good cause, and shall then present the candidates to the Bookstore Members in accordance with these Bylaws and policies and procedures adopted by the Board. The Committee shall be composed of five booksellers from member bookstores and shall include two current Directors, none of whom shall be nominated for a current vacancy on the Board. The Committee term is one year. One of the Board members shall be appointed as Chair of the Committee. Approximately one hundred and twenty (120) days prior to the annual meeting, the Nominating Committee shall nominate candidates for the Board of Directors and shall announce the nominations to the Bookstore Members.

(b) Petitions. Any Bookstore Member may submit a petition for a Director or Officer candidate to the Association. Each petition shall present only one candidate and, to be valid, must name a candidate who meets the qualification for office established under these Bylaws. Petitions must be received by the Association at least ninety (90) days prior to the annual meeting. The names on the petition shall reflect at least two percent of the Bookstore Members as of January 1 of the year in which the election is to be held and contain original signatures, names, addresses, and telephone numbers for the Bookstore Members in at least five states (with representatives of no one state constituting more than fifty (50) percent of the total number of petition signatures). Upon receipt of a valid petition, the Association shall add the petitioned candidate's name to the Ballot.

(c) Ballot. The Ballot setting forth nominees for Director, President, and Vice President/Secretary candidates shall be distributed to all Bookstore Members at least sixty (60) days prior to the Association's annual meeting. The ballots shall be returned at least thirty (30) days prior to the annual meeting. Bookstore Members may write in candidates for the Director, President, and Vice President/Secretary positions who meet the qualifications established under these Bylaws.

(d) Election Results. The Director, President, and Vice President / Secretary candidates receiving the most votes for their respective positions out of the total number of ballots submitted shall be elected, subject to verification by the Inspector of Elections who has been appointed by the Board.

(4) **Vacancies.** If a Director or Officer vacancy occurs on the Board for any reason, the position shall be filled by the Board until the next annual election, at which time the person filling the vacancy may be eligible for nomination as a candidate to stand for election for the remainder of the term of such position, if any. Should the remainder of that term be less than one year, that person would be eligible for two terms of Board service. In filling a vacancy, the Board will rely heavily on the recommendations of the most recent Nominating Committee.

(5) **Meetings.** ~~The Board of Directors shall choose the date of the annual meeting scheduled each spring. This meeting may be virtual or it may be in person and may be in conjunction with an industry or ABA conference, at the Board's discretion. The Board of Directors meets annually at the same time and place as BookExpo, unless BookExpo is not held during the same calendar year as the election, in which case the Board shall choose the date of the annual meeting.~~ In addition, there shall be a total of at least three other meetings a year, which must be in different calendar quarters. There shall be notice provided to the Directors by any reasonable means at least fifteen business days prior to each regular meeting. A special meeting of the Board may be held with notice provided by any reasonable means at least forty-eight hours prior to the meeting. The presence of eight Directors constitutes a quorum at any meeting. A majority vote of Directors at a meeting at which a quorum is present is necessary to take action.

Proxy voting is not permitted. Upon prior authorization by the Board, a Director may participate in any Board meeting via virtual meeting or conference call and shall be counted as present for purposes of quorum and voting. As voted by members in 2020, if the vote on the matter is tied, the President may cast a second vote to form a majority vote.

(6) **Removal.** A Director may be removed for adequate reason by a two-thirds vote of the Board of Directors, with the Director being considered for removal not participating in the vote. Adequate reason includes failure to fulfill Board duties and responsibilities or other failures as stipulated in Article II Section (5).

(7) **Compensation.** Directors do not receive compensation for their services, but shall be reimbursed for authorized expenses. Board officers may receive a stipend to offset expenses incurred by their store due to their absence while working on board duties.

(8) **Attendance.** The Board may establish attendance and other policies and procedures for Directors and Officers.

ARTICLE V (OFFICERS)

(1) **Officers.** The Officers of the Association are the President and the Vice President(s)/Secretary. ~~**Qualifications:** The Officers shall be members of the Board of Directors and shall have served on the Board for at least one year immediately prior to the date of assuming office.~~

(2) **Qualifications, Election, and Term of Office for President.** After Board approval of candidates for the Board of Directors, the Board shall, in odd numbered years, select the nominee for the office of President to appear on the ballot for election of Directors and Officers by Bookstore Members. All current members of the Board serving

their second term shall be considered by the Board as possible nominees for President. If there are not at least two members of the Board who are serving their second term, the Board shall also consider as possible nominees for President other members of the Board, giving preference to those Directors with the longest terms of service. The President shall be directly elected by the Bookstore Members in accordance with the procedures outlined in Article IV of these bylaws. The President shall serve a single term of two years, which may be in addition to the six year term allowed for Directors. The President is not eligible for reelection to the Board for a period of six years following the completion of their two-year term as President. Bookstore Members may write in the names of candidates for President who meet the qualifications established under the Bylaws. If the Bookstore Members fail to approve the nominee for President and there is no successful write-in candidate, the Board shall choose the President from among the remaining eligible Board members. The President shall take office at the Board meeting held in conjunction with the Association's annual meeting.

(3) ***Qualification, Election, and Term of Office for Vice President/Secretary.***

After Board approval of candidates for the Board of Directors, the Board shall, in odd numbered years, select the nominees for the office of Vice President/Secretary to appear on the ballot for election of Directors and Officers by Bookstore Members. All current members of the Board with at least two years of service on the Board prior to the date when office would be assumed shall be considered by the Board as possible nominees for Vice President/Secretary. If there are not at least two members of the Board who meet this criteria, the Board shall also consider other members of the Board as

possible nominees for Vice President/Secretary. The Vice President/Secretary shall be directly elected by the Bookstore Members in accordance with the procedures outlined in Article IV of these bylaws. The Vice President/Secretary shall serve a single term of two years, which is subject to and not in addition to the six-year limit on terms of service established for Directors generally. Bookstore Members may write in the names of Vice President/Secretary candidates who meet the qualifications established under the Bylaws. If the Bookstore Members fail to approve the nominee for Vice President/Secretary and there are no successful write-in candidates, the Board shall choose the Vice President/Secretary from among the remaining Board members. The Vice President/Secretary shall take office at the Board meeting held in conjunction with the Association's annual meeting and their term of office is two years.

(4) ***Duties.*** The elected Officers perform those duties that are usual to their positions and that are assigned to them by the Board of Directors. The President, as the chief elected Officer of the Association, presides at meetings of the Board, and, along with the Chief Executive Officer, serves as the voice of the Association to the membership, the industry, the media, and other key stakeholders. The Vice President / Secretary assumes the duties of the President when the President is unable to perform their duties. In addition, the Vice President / Secretary shall be responsible for ensuring that minutes of Board meetings are maintained and that the Board receives timely reports concerning the Association's books, records, and other information necessary for the Directors to fulfill their fiduciary duties.

(5) ***Vacancies.*** If a vacancy occurs for any reason in the position of President, it is filled for the unexpired term by the Vice

President/Secretary. If a vacancy occurs for any reason in the position of Vice President/Secretary, it is filled for the unexpired term by the Board from among eligible Directors.

- (6) **Removal.** An elected Officer may be removed for adequate reason by a two-thirds vote of the Board of Directors, with the Officer being considered for removal not participating in the vote. **Adequate reason includes failure to fulfill Officer or Board duties and responsibilities or other failures as stipulated in Article II Section (5).**
- (7) **Compensation.** Officers do not receive compensation for their services but shall be reimbursed for authorized expenses.

ARTICLE VI (MEETINGS AND

VOTING) (1) **Annual Meeting.** ~~The Association holds an annual member meeting at a time and place determined by the Board of Directors. This meeting may be virtual or it may be in person and in conjunction with an industry or an ABA conference. The Association holds an annual member meeting in conjunction with the BookExpo trade show at a time and place determined by the Board of Directors. Notice of the meeting, specifying the business to be conducted, shall be provided to Bookstore Members at least thirty days in advance of the meeting.~~

- (2) **Special Meetings.** Special meetings of the Bookstore Members may be called by the Board of Directors at any time, or by the President upon written request of ten percent of the Bookstore Members. The notice requirements are the same as for an annual meeting.

- (3) **Notice.** The Chief Executive Officer must give Bookstore Members notice of all annual and special meetings as stated above by any reasonable method permitted by law. The notice shall include a description of the business to be discussed.

- (4) **Voting and Quorum.** The presence of ten percent of the Bookstore Members or one hundred Bookstore Members, whichever is less, constitutes a quorum. A majority of Bookstore Members at a meeting at which a quorum is present is necessary to take formal action, except as otherwise provided by law or these Bylaws. Proxy voting is not permitted. Voting without a meeting is permitted in accordance with the New York Not-For-Profit Corporation Law. For purposes of any member vote (except for the election of Officers and Directors), a “majority” means that the number of affirmative votes cast must be at least equal to a quorum.

ARTICLE VII (COMMITTEES AND ADVISORY BODIES) (Amended and approved by the membership on 6/1/2007)

- (1) **Standing Committees.**
- (a) **Nominating Committee.** The Nominating Committee consists of five Bookstore Members, as stated in Article IV of these Bylaws.
- (b) **Governance Review Committee.** The Board shall appoint a Governance Review Committee constituted of Bookstore Members, none of whom is a member of the current Board, but one of whom is a previous member of the Board, to review **every other year**~~annually~~ the Association, Board, and Officers’ practices in accordance with policies and procedures adopted by the Board. The members of the Governance Review Committee serve for a one-year **renewable** term.

(c) **Audit Committee.** The Board shall establish an Audit Committee, in a manner consistent with any New York or federal statutory requirements, to assist the Board of Directors in fulfilling its oversight responsibilities for the financial reporting process, the system of internal control, the audit process, and the Association's process for monitoring compliance with financial, tax, and accounting laws and regulations. The Committee will consist of no fewer than three but no more than five persons, at least one of whom should be an elected member of the Board of Directors, and all of whom shall be appointed by the President of the Board.

(2) **Advisory Councils.** The Association shall establish one or more Advisory Councils, in accordance with policies and procedures adopted by the Board, to serve as strategic councils assisting the Board of Directors and providing the Association and the Board with a wide spectrum of views on critical issues facing the bookselling industry. Each Advisory Council shall meet at least annually.

(3) **Other Committees and Task Forces.** The Board may establish other Committees it deems appropriate. The Board or the Chief Executive Officer also may establish Task Forces.

ARTICLE VIII (ADMINISTRATION)

(1) **Chief Executive Officer.** The Board of Directors selects a Chief Executive Officer, who is the principal manager and administrator of the Association and is responsible for the day-to-day operation of the Association and all of its employees, including hiring and firing of Association employees. The Chief Executive Officer may engage staff and/or outside consultants. The Board shall engage the Association's

General Counsel.

(2) **Policies and Procedures.** The Board of Directors may establish policies and procedures that are consistent with these Bylaws. Robert's Rules of Order shall govern unless otherwise provided for by the Certificate of Incorporation, the Bylaws, or applicable law.

(3) **Amendments.** Amendments to these Bylaws may be made upon proper notice at any regular or special meeting of the Bookstore Members, or without a meeting in accordance with New York Not-For-Profit Corporation Law. In either case, amendments to these Bylaws may be made if the entire Board of Directors first approves the proposed amendments by a two-thirds vote and then submits such amendments for approval by the Bookstore Members, either at a meeting or by written ballot in accordance with the Bylaws and policies and procedures adopted by the Board. Action to amend these Bylaws may be taken either at a meeting or without a meeting, i.e., by written ballot, and requires a majority vote of Bookstore Members, as set forth in Article VI, Section 4.

(4) **Indemnification.** Directors, Officers, and other authorized employees or agents of the Association shall be indemnified against claims for liability arising in connection with their positions or activities on behalf of the Association to the full extent permitted by law.

(5) **Fiscal Year.** The fiscal year for the Association shall be set by the Board of Directors.

(6) **Electronic Notification and Voting.** Notices and written ballots required or permitted under these Bylaws may be distributed to Bookstore Members and voting may be conducted by Bookstore Members by U.S. mail or by electronic means, or both, in accordance with procedures approved by the Board of Directors.