

GUIDE FOR DRAFTING BYLAWS FOR STATE AND LOCAL MUSIC TEACHERS ASSOCIATIONS

by

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In this Guide, MTNA provides an overview of how to put together an effective set of bylaws for state or local music teacher associations (“MTA”). Whether the MTA is just looking to improve its existing bylaws or to adopt a new set of bylaws, this Guide will assist the MTA in avoiding the pitfalls that can arise for non-profit associations.

Below MTNA provides some general suggestions on the design and content of bylaws. MTNA no longer provides model bylaws because bylaws need to be consistent with the different state laws governing non-profit corporations. In addition, using model bylaws can lead to the MTA adopting bylaws that do not fit its particular governing structure or membership classifications. It is important that the MTA draft its bylaws to spell out exactly how it intends to govern its own organization.

As far as guidance on drafting or rewriting bylaws, here are some important items to keep in mind:

1. State Law. The bylaws must be consistent with state law governing non-profit corporations. States generally dictate how meetings of members and the board of directors are called and conducted, what rights, including voting rights, members have, when and what circumstances voting can be done electronically or by mail, how bylaws are to be adopted and amended, etc. While state law typically provides leeway to non-profits in deciding these mechanics, any redraft of the association’s bylaws must start with reviewing the requirements of state law. The use of a local attorney will be beneficial to insure the bylaws are consistent with the requirements of state law.
2. Articles of Incorporation. In order to form a corporation, it is necessary to file Articles of Incorporation with the state, usually at the Secretary of State’s Office. Those Articles spell out the name of the organization, where it is located, the purposes for which it is formed, and, in the case of a non-profit corporation that is tax-exempt as a charitable, scientific, religious, or educational organization, contains language required by the IRS.

It is important that the bylaws be consistent with the Articles. In addition, if the organization has a constitution, the bylaws need to be consistent with it. Many organizations are moving away from having a separate constitution and are using only bylaws. This simplified approach reduces risk of conflicts and is strongly recommended.

3. Bylaws should be Flexible. Bylaws need to provide some degree of flexibility so that the organization does not get boxed in when circumstances change in the future. For example, instead of setting the number of directors at seven, it may be better to provide that there will be no more than seven directors. That way, if the MTA has a problem one year in recruiting seven board members, it is not in violation of its bylaws if it has less

than seven. The best bylaws are those that give the organization flexibility in handling changing times.

4. Bylaws should be General. Bylaws are a broad outline of the MTA's governance and membership structure. They set out the framework while details should be flushed out in policies that the board of directors adopts. In that manner, the board has greater flexibility to deal with changing circumstances. A good example would be the dues structure. Instead of placing a dues schedule in the Bylaws, which would then be difficult and cumbersome to change at a later date, the determination of dues should be left to policy decisions made by the board of directors.
5. Task Forces. To promote nimbleness and cost savings, many non-profit associations are eliminating the standing committee structure whereby the bylaws may have prescribed four or five set committees. Instead, the organizations are choosing to use ad hoc committees or task forces to address specific problems or projects. Instead of having set committees that are assigned an area of responsibility (e.g., budget, bylaws, etc.), the board of directors is given the authority to appoint a task force whenever the need arises. In that way, the board of directors can appoint specific individuals who have a certain expertise to undertake an action, report back on a recommendation to the board, and disband. For smaller operations like state and local MTAs, this method of getting tasks done can be very beneficial.
6. Tailor the Bylaws. As noted above, one of the dangers of using a set of model Bylaws is that the model will not fit how your MTA operates or be consistent with its culture. If your local MTA is very dependent on the president setting the agenda and carrying out the lionshare of the work, then the bylaws should provide the president's office ample powers and discretion. On the other hand, if the MTA is member driven, the bylaws will want to provide the membership with authority to drive the organization. Any rewrite of the bylaws should try to reflect how the association operates.
7. Bylaws Approval and Amendment. While rewriting the bylaws may seem to be beneficial, a set of new bylaws will be worthless if they are not adopted. Therefore, when putting together a new set of bylaws or making significant changes to existing bylaws, the MTA should insure that there is a sufficient consensus among the membership so the changes will be approved. It is a process that requires a lot of input from and education of the membership in order to ensure approval.

Likewise, when rewriting the bylaws, take a close look at the amendment process. While state law will provide some requirements on how amendments to the bylaws must be approved, there is usually a fair amount of leeway provided to organizations. MTAs are advised not to place future leadership in a straitjacket by making it very difficult to amend the bylaws in the future. To promote nimbleness and flexibility, the association should be able to change its membership and governance structure to react to changing circumstances.

8. Constructing the Bylaws. While MTA does not advocate that a state or local association simply download a set of model bylaws and fill in the blank spaces, that does not mean that it is not useful to “borrow” structure and language from other organizations’ bylaws. There are many models and examples that can be found on the internet which will be helpful to the MTA in putting together a set of bylaws that matches its operation and culture.

One obvious example to use are the Bylaws of MTNA, which are available on its website. Obviously, since MTNA is a national association, its Bylaws are not going to be consistent with the needs and structures of a state or local MTA. However, the MTNA Bylaws do provide a helpful outline of those areas that bylaws need to address such as the association’s name, purposes, membership, officers, board of directors, committees, and amendments. Moreover, a state or local MTA may want to lift language from the MTNA Bylaws on items such as purposes, membership and committees. Of course, before doing so, make sure that the provisions are consistent with your state law.

State and local affiliates are not required to seek MTNA approval of their bylaws or any amendments or revisions. The Bylaws of MTNA does state that it is the responsibility of the affiliate to certify that all governing documents are in compliance with the MTNA documents, to maintain all requirements if covered under the MTNA 501(c)(3) group exemption, and to carry out various programs of MTNA.

Below we list the individual items that should be addressed in an effective set of bylaws for a state or local MTA:

- a) **Name.** Normally, the first section of the bylaws recites the legal name of the MTA.
- b) **Purposes.** The non-profit purposes of the MTA are set forth in the second section of the bylaws. If the MTA is a tax-exempt educational organization under Section 501(c)(3) of the IRS Code, you need to include in the purposes the language the IRS requires addressing private inurement, lobbying activities, and transfer of funds if the organization is dissolved. If this language is already in the MTA’s Articles of Incorporation (where it should be), then there is no need to repeat it in the Bylaws. For a state or local MTA looking for suitable language, Article II of MTNA’s Bylaws provide a good sample.
- c) **Affiliation Statement. In referring to its affiliation, each association shall use the phrase, “Affiliated with Music Teachers National Association.” This specific phrase shall be included in the constitution/bylaws of all state and local affiliated associations, college chapters, and in all publications and programs.**
- d) **Membership Class.** The next section spells out the classes of membership (if there is more than one) and describes the eligibility for each membership class

and their primary powers (e.g., right to vote or hold office). The requirement to pay dues and the fact that the board of directors will establish the dues each year is usually included in this section. This section may also address expulsion of a member for non-payment of dues, reinstatement of an expelled member, and revocation of membership for other causes. The Bylaws of MTNA provide useful sample language on each of these subsections.

- e) **Officers.** The next section usually lists the officers of the association, their powers and duties, election, term, removal or resignation, and how vacancies are filled. This is an area where the MTA will want to customize terms to fit its own particular culture and circumstances. For example, if the association usually has no problems in recruiting leadership, it may want to impose term limits on officers. On the other hand, if there is not a waiting list of volunteers seeking to serve as officers, then an association may want to have no term limits so that it is able to keep capable leaders in office as long as they are willing to serve.
- f) **Committees.** If the MTA has standing committees which it would like to retain, such as a budget committee, convention committee, or bylaws committee, the bylaws should spell out the composition and powers of each standing committee. However, as noted above, the modern trend in association governance is to avoid standing committees and to provide the authority to the board of directors to appoint ad hoc committees and task force to take on specified projects. If the MTA wishes to adopt this approach, it may want to look at Article XVII of the MTNA Bylaws which provide to the MTNA Board of Directors the power to establish committees from time to time to address different needs and issues. As with most associations, the members of the committee are appointed by the president with the approval of the board of directors.
- g) **Amending the Bylaws.** Before adopting or rewriting the section on how the bylaws may be amended in the future, make sure you examine state law. State law may require approval of bylaw changes by the board of directors, the membership, or both. In addition, there may be requirements or options for approval by a majority vote or a super-majority vote such as 2/3 approval.

It is recommended that the bylaws provide for a fairly flexible means to propose amendments and to approve them. If the bylaws imposed super-majority vote requirements for amendments to be approved, the association may find itself unable to change governance to meet future circumstances. To maintain flexibility and to allow future leadership to remain nimble, it is best not to impose too many restrictions on the ability of the membership and/or board of directors to amend the bylaws.

If state or local MTAs have questions or issues regarding their bylaws, they may contact MTNA Chief Executive Officer Brian Shepard at bshepard@mtna.org or (800) 512-5278 x241.