



**Amended and Restated By-Laws**  
**of the**  
**Foundation for the National Institutes of Health, Inc.**  
*(formerly known as the National Foundation for Biomedical Research, Inc.)*

A Maryland Non-stock Corporation

Current as of May 23, 2019

**Article I: Offices**

1. **Principal Office.** The principal office of the Corporation within the State of Maryland shall be in a location as set forth in the Articles of Incorporation or as otherwise determined by the Board of Directors from time to time.
2. **Other Offices.** The Corporation may also have an office or offices other than said principal office at such place or places, either within or without the State of Maryland, as the Board of Directors shall from time to time determine or the business of the Corporation may require.

**Article II: Purpose and Mission**

1. **Purpose.** The Corporation is organized as a non-profit organization exclusively for charitable, scientific, and educational purposes as specified in section 501(c)(3) of the Internal Revenue Code of 1986 and Section 499 of the Public Health Service Act, 42 U.S.C. §290b (the “Statute”). The purpose of the Corporation shall be to support the National Institutes of Health in its mission, and to advance collaboration with biomedical researchers from universities, industry, and nonprofit organizations.
2. **Mission.** The mission of the Corporation shall be to create and lead alliances and public-private partnerships that advance breakthrough biomedical discoveries and improve the quality of people’s lives.

**Article III: Members**

1. **Members.** The Corporation shall have no members.

**Article IV: Board of Directors**

1. **General Powers.** The business and affairs of the Corporation shall be managed under the direction of the Board of Directors (the “Board”). The Board may exercise all such authority and powers of the Corporation and do all such lawful acts and things as provided by law or the Articles of Incorporation.

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2. **Composition and Number.** The Board shall be composed of:
  - a. Such number of ex officio members as may be designated or identified from time to time pursuant to the Statute or these By-laws (the “Ex Officio Directors”), and
  - b. Other members elected in accordance with the Statute or these By-laws (the “Elected Directors”). All Elected Directors shall be voting members of the Board. The number of the Elected Directors may be increased or decreased from time to time but shall at no time be less than six (6) in number and no more than thirty-two (32) in number. No employee of the National Institutes of Health shall be an Elected Director.
3. **Election and Term of Office.** Except for the President and Executive Director, each Elected Director shall hold office for a term of three (3) but not more than five (5) years, or until such Elected Director’s earlier death, resignation, or removal. Such term may be set to expire at an annual meeting held within twelve (12) months of the date that would otherwise be the end of the term. The President and Executive Director, who upon appointment to that role shall become an Elected Director, shall serve at the pleasure of the Board. Elected Directors are elected by the Board, including to fulfill unexpired terms, at any annual, regular, or special meeting of the Board. There shall be no limitation on the number of terms that each Elected Director may serve. An Elected Director, at the Board’s discretion, may continue to serve after the expiration of such person’s term until a successor is elected and qualified.
4. **Annual Meeting and Reporting.**
  - a. The annual meeting of the Board shall be held at such time and place (within or without the State of Maryland) as the Board, Chair of the Board, or President and Executive Director may fix but in no event later than the end of the fifth (5th) month following the end of the fiscal year of the Corporation. It shall be open to the public.
  - b. In accordance with the Statute, the purpose of the annual meeting is to summarize the activities of the Foundation and distribute written reports concerning such activities and the scientific results derived from such activities (the “Annual Report”).
  - c. The Corporation shall publish a report for the preceding fiscal year pursuant to the Statute, which shall include the information required under the Statute (the “Statutory Report”).
  - d. The Corporation shall make copies of each Statutory Report available to any person for a charge not exceeding the cost of providing such copy.
5. **Regular and Special Meetings.** Regular and special meetings of the Board shall be held at such times and places (within or without the State of Maryland) as the Board, Chair of the Board, or President and Executive Director may fix.
6. **Notice.** Annual, regular, and special meetings of the Board shall be held on notice to the Elected Directors (“Notice”). Notice shall state the time and place of the meeting and, in the case of a special meeting, the purpose or purposes for holding such meeting. Notice, and waivers of Notice, shall be delivered and governed by any means permitted by law.<sup>1</sup>
7. **Quorum.** A majority of the Elected Directors shall constitute a quorum for purposes of conducting the business at any meeting of the Board but if less than a majority of the Elected Directors are

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<sup>1</sup> See MD. CODE ANN., CORPS. & ASS’NS § 2-409 (2017).

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present at said meeting, a majority of the Elected Directors present may adjourn the meeting from time to time without further notice.

8. **Manner of Acting.** The act of a majority of the Elected Directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law or these By-laws.
9. **Resignations.** Any Elected Director may resign at any time by giving written notice of resignation to the Board, the Chair of the Board, the President and Executive Director, or the Secretary. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon its receipt. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
10. **Removal of Directors.** Any Elected Director may be removed for cause by the vote of a majority of the Elected Directors then in office, unless otherwise required by law.
11. **Compensation.** Members of the Board may not receive compensation for service on the Board. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board as set forth in these By-laws.
12. **Informal Action by the Board.** Any action required or permitted by law to be taken at a meeting of the Board may be taken without a meeting if a unanimous written consent concerning such action is delivered by each Elected Director in any manner permitted by law,<sup>2</sup> including email.
13. **Telephonic Meetings and Remote Participation.** Unless restricted by the Articles of Incorporation, Elected Directors and others may participate in a meeting by any means permitted by law.<sup>3</sup>
14. **Ex Officio Directors.** An Ex Officio Director shall be entitled to receive Notice of, and to attend meetings or portions of meetings of, the Board (or any committees thereof to which such Ex Officio Director may be appointed), but shall have no voting or other rights of an Elected Director. An Ex Officio Director may request, and the Chair of the Board may permit, a representative to attend meetings of the Board on behalf of such Ex Officio Director. Ex Officio Directors shall have the same access to information as the Elected Directors and shall be entitled to participate in discussions with the Elected Directors; provided, however, that:
  - a. the Corporation shall have no obligation to provide any of the foregoing information to an Ex Officio Director (or such Ex Officio Director's designated representative) if disclosure could reasonably be expected to result in the waiver or forfeiture of any applicable attorney-client privilege with respect to such information, would be a conflict of interest, or would jeopardize the confidentiality of proprietary information of the Corporation
  - b. the Ex Officio Director (and such Ex Officio Director's designated representative) may be excluded from executive sessions of Board meetings or other parts of a meeting in which such person has a conflict of interest.
15. **Directors Emeritus.** The Board may from time to time appoint a former director to the honorary position of "Director Emeritus" in recognition of extraordinary and distinguished service to the Corporation. Unless otherwise determined by the Board, the appointment of a Director Emeritus

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<sup>2</sup> See MD. CODE ANN., CORPS. & ASS'NS § 2-408 (2017).

<sup>3</sup> See MD. CODE ANN., CORPS. & ASS'NS § 2-409 (2017).

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shall continue in effect for the remainder of such person's life (but may be rescinded by the Board at any time). A Director Emeritus may attend a meeting of the Board with the permission of the Chair of the Board. A Director Emeritus is not entitled to vote.

16. **Honorary Directors.** The Board may from time to time appoint a former director to the honorary position of "Honorary Director" in recognition of distinguished contributions to the Corporation. Unless otherwise determined by the Board, the appointment of an Honorary Director shall be for renewable terms of three years (but may be rescinded by the Board at any time). An Honorary Director may attend a meeting of the Board with the permission of the Chair of the Board. An Honorary Director is not entitled to vote.
17. **Advisory Boards and Directors.** The Board may create one (1) or more advisory boards from time to time as it deems appropriate for the needs of the Corporation. The Board may appoint members of such advisory boards or delegate this power to a committee or the President and Executive Director. Such advisory directors are not entitled to attend Board of Directors meetings or vote. Other operating procedures of advisory boards shall be determined from time to time.

### **Article V: Committees**

1. **Committees.** The Board may designate and appoint one (1) or more committees, each of which shall consist of two (2) or more directors, and delegate to such committees any of the powers of the Board, except the powers to:
  - a. amend or restate the Articles of Incorporation
  - b. amend, alter, or repeal the By-laws
  - c. elect, appoint, or remove any Elected Director or Officer
  - d. adopt a plan of merger or consolidation with another corporation
  - e. grant all, or substantially all, of the assets of the Corporation to another entity, or
  - f. to the extent permitted by the Statute, dissolve the Corporation.

The appointment of any committee, the delegation of authority to it, or action by it under that authority shall not operate to relieve the Board, or any individual member of the Board, of any responsibility imposed by law.

2. **Executive Committee.** The Executive Committee shall enjoy and may exercise all of the powers of the Board between meetings of the Board except those expressly reserved to the Board in Article V, Section 1. The Executive Committee shall be composed of those Elected Directors who serve as chairs of the Committees appointed pursuant to Article V, Section 3 and Elected Directors who also serve as Officers. The Board may appoint other Elected Directors to the Executive Committee from time to time. The Chair of the Board shall be the Chair of the Executive Committee. The Executive Committee shall operate in the same manner as prescribed in Article IV, Sections 7-9, 12-13 (substituting "Executive Committee member(s)" for "Elected Director(s)" and "Executive Committee" for "Board").
3. **Other Committees.** The members and chairs of committees other than the Executive Committee shall be appointed by the Board from time to time. The Board shall normally consider the full composition and leadership of the committees annually. The Chair of the Board and the President

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and Executive Director shall serve as ex officio members of all committees except that the President and Executive Director shall not serve on a committee specifically appointed to determine executive compensation. These committees shall be governed by a charter approved by the Board and they may subdelegate any of their duties to subcommittees. In the absence of specific operating procedures in their charters, the committees shall operate in the same manner as prescribed in Article IV, Sections 7-9, 12-13 (substituting “committee member(s)” for “Elected Director(s)” and “committee” for “Board”).

### **Article VI: Officers and Policies**

1. **Number and Qualifications.** The Officers of the Corporation (the “Officers”) shall be elected by the Board and shall include the Chair of the Board, the Vice Chair(s) of the Board, the President and Executive Director, the Secretary, and the Treasurer. If the Board wishes, it may elect other Officers (including one or more Assistant Treasurers and one or more Assistant Secretaries), as may be necessary or desirable. Any two (2) or more offices may be held by the same person, except the offices of the President and Executive Director and Secretary. No Officer except the Chair of the Board and Vice Chair(s) of the Board need be an Elected Director.
2. **Election and Term of Office.**
  - a. The Officers, except for the President and Executive Director, shall be elected annually by the Board at its annual meeting. If the election of such Officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each such Officer shall hold office until death, resignation, removal, or until the next annual meeting of the Board and until a specified successor is elected and qualified.
  - b. The Board shall appoint a President and Executive Director who shall serve at the pleasure of the Board.
3. **Resignations.** Any Officer may resign at any time by giving written notice of resignation to the Board, the Chair of the Board, the President and Executive Director, or the Secretary. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective shall not be specified therein, immediately upon its receipt. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.
4. **Removal.** Any Officer elected or appointed by the Board may be removed by an affirmative vote of a majority of the then incumbent Elected Directors whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the Officer so removed.
5. **Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification, or otherwise shall be filled by the vote of the Board for the unexpired portion of the term.
6. **Chair of the Board.** The Chair of the Board shall preside at each meeting of the Board. The Chair shall provide advice and counsel to the President and Executive Director. The Chair shall perform all duties incident to the office of Chair of the Board and such other duties as may from time to time be assigned by the Board.
7. **Vice Chairs of the Board.** The Vice Chair(s) of the Board shall preside at each meeting of the Board at which the Chair of the Board is not present. The Vice Chair(s) shall perform all duties incident to the office of Vice Chair and such other duties as may from time to time be assigned to

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them by the Board. From time to time, the Board may elect multiple Vice Chairs and, if appropriate, designate their specific duties (e.g. Policy or Science).

8. **President and Executive Director.** The President and Executive Director shall be the chief executive officer of the Corporation responsible for the day-to-day operations of the Corporation including selection of employees. The President and Executive Director shall perform all duties incident to the office of President and Executive Director and such other duties as may from time to time be assigned to that person by the Board.
9. **Treasurer.** The Treasurer shall have charge and custody of, and be responsible for, all the funds and securities of the Corporation; keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation; deposit all moneys and other valuables to the credit of the Corporation in such depositories as may be designated by the Board or pursuant to its direction; receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever; disburse the funds of the Corporation; render to the Board, whenever the Board may require, an account of the financial condition of the Corporation; and in general, perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board.
10. **Secretary.** The Secretary shall keep or cause to be kept in one or more books provided for the purpose, the minutes of all meetings of the Board; see that all notices are duly given in accordance with the provisions of these By-laws and as required by law; be custodian of the records and the seal of the Corporation and affix and attest the seal to all other documents to be executed on behalf of the Corporation under its seal; see that the books, reports, statements, certificates and other documents and records required by law to be kept and filed are properly kept and filed; and in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board.
11. **Assistant Treasurers and Assistant Secretaries.** The Assistant Treasurers and Assistant Secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer, the Secretary, the President and Executive Director, or the Board.
12. **Conflicts of Interest.** From time to time, the Board shall adopt a Conflicts of Interest Policy, the purpose of which is to encourage the recognition and disclosure of real or apparent conflicts of interest and to manage them; ensure that decisions about the Corporation's operations and the use or disposition of the Corporation's assets are made honestly, prudently, and solely for the benefit to the Corporation; and ensure that decisions are not influenced by any private profit or other personal benefit to interested persons who take part in a decision or whose decision may affect a related person. The Conflicts of Interest Policy shall comply with the Statute.
13. **Policies.** The Board shall ensure that the policies listed in Section (c)(6)(A) of the Statute are provided for.
14. **Compensation.** The Corporation may pay reasonable compensation for services rendered by Officers and employees of the Corporation. An Officer shall not be prevented from receiving compensation by reason of the fact that such person is also a member of the Board. All amounts paid as compensation by the Corporation to any Officer shall be approved by the Board (or a committee delegated such responsibility).

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### **Article VII: Indemnification**

1. **Indemnification.** On the terms, to the extent, and subject to the conditions prescribed in Section 2-418 of the Maryland Corporations and Associations Law, and by such rules and regulations, not inconsistent with law, as the Board may in its discretion impose in general or particular cases or classes of cases, (i) the Corporation shall indemnify any person made, or threatened to be made, a party to an action or proceeding, civil or criminal, including an action by or in the right of any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise which any Elected Director, Officer, or employee of the Corporation served in any capacity at the request of the Corporation, by reason of the fact that such person or such person's testator or intestate, was an Elected Director, Officer, or employee of the Corporation, or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, and (ii) the Corporation shall pay, in advance of final disposition of any such action or proceeding, expenses incurred by such person in defending such action or proceeding, subject to the receipt of a written undertaking to repay such expenses in the event that such person is determined not to be entitled to be indemnified.

### **Article VIII: General Provisions**

1. **Seal.** The seal of the Corporation shall be in such form as shall be approved by the Board, the Secretary, or the President and Executive Director.
2. **Fiscal Year.** The fiscal year of the Corporation shall end on December 31 of each year or on such other date as may be fixed by resolution of the Board.
3. **Checks, Notes, Drafts, Etc.** All checks, notes, drafts, or other orders for the payment of money of the Corporation shall be signed, endorsed, or accepted in the name of the Corporation by such Officer(s) or person(s) as from time to time may be designated by the Board or by such Officer(s) authorized by the Board to make such designation.
4. **Execution of Contracts, Deeds, Etc.** The Board may authorize any Officer(s) or agent(s) in the name and on behalf of the Corporation to enter into or execute and deliver any and all deeds, bonds, mortgages, contracts, and other obligations or instruments, and such authority may be general or confined to specific instances.
5. **Deposits.** All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select.
6. **Gifts.** The Board may accept on behalf of the Corporation any grant, contribution, gift, donation, bequest, or devise for the general purposes or for any special purpose of the Corporation, provided such acceptance is not inconsistent with the Statute.

### **Article IX: Amendments**

1. **Amendments.** These By-laws may be amended, altered, repealed, or replaced by resolution of the Board.