

**AMERICAN THEATRE ORGAN SOCIETY
CORPORATE PROFILE
CURRENT THROUGH JANUARY 2010**

CORPORATE ORGANIZATION:

Company Name:	American Theatre Organ Society
Incorporation State:	California
Date of (Restated) Articles Of Incorporation	July 29, 2000
Principal Office:	As determined by Board (§ 1.1)
Registered Agent:	Mr. Craig Peterson, 7800 Laguna Dr., Elk Grove, CA 95758

FINANCES AND

ACCESS TO BOOKS & RECORDS:

Fiscal Year: May 1 – April 30 (§ 7.1)

Public Documents & Inspection: Books, accounts, and records of the Board and its committees are available for inspection upon reasonable notice by any member. (§ 7.2)

All meetings, books, records, and other documents that reflect official actions of ATOS are presumed to be available for inspection by any member in good standing of ATOS at his/her expense. (Policy ¶ 5(b))

Confidential Documents:

Information regarding the internal problems of an ATOS Chapter, information of a personal nature about an ATOS member, information subject to a legitimate claim of privilege, information concerning actions and/or negotiations in progress but not finalized, information concerning financial supporters and fund-raising activities, information required to be maintained as confidential by law, the Society's bylaws, or the Society's written policies, and/or any other information designated in good faith in advance as confidential shall be held in the strictest of confidence. (Policy ¶ 5(b))

Discussion of ATOS business between Officers, Directors, and Staff prior to action taken by the Board is to be held in confidence (Code of Ethics ¶ 2)

BOARD OF DIRECTORS:

Powers:	All corporate power is exercised by or under the authority of, and the business affairs of the Society is controlled by, the Board of Directors. (§ 4.1)
Voting Board Members (13):	9 Elected Directors 4 Appointed Directors (“Officers”) (§ 4.2)
Ex-Officio (Non-Voting) Board Members (2)	1 Immediate Past Chairman (§ 4.2(c), § 4.4(c)(i)) 1 Youth Representative To The Board (§ 4.2(c) , § 4.4(c)(ii))

ELECTED DIRECTORS (9):

Qualifications:	Any member of ATOS 18 years of age or older who has held two years of continuous ¹ membership prior to the date of closing of nominations and who is not a Director of a Competing Organization. (§ 4.2(a), 4.2(e))
Term:	Three years (§ 4.4(a)) (or less if filling a vacancy)
Term Limits:	An Elected Director having served two consecutive terms of any duration is ineligible for re-election or appointment as an Elected Director until at least two years have elapsed from the expiration of his second elected term. (§ 4.4(a)).
Determination of Vacancy:	Vacancy exists in the case of (1) death, resignation, or removal of Director; (2) increase in the number of Directors; or (3) failure of membership to elect the full number of Directors. (§ 4.5)
Filling of Vacancy:	A vacancy may be filled: (1) at the next regular election by the candidates receiving the highest number of votes; or (2) (in the case of resignation only), by the Board electing a successor to take office at such time as the resignation shall become effective. (§ 4.5)

¹ Under ATOS Policy 11(j), “For the purposes of determining a candidate’s eligibility under these rules, membership shall be considered “continuous” during any two year period if no more than one month has elapsed between the expiration and subsequent renewal of the candidate’s membership.”

Removal: The Board may not remove an Elected Director. (Cal. Corp. Code § 5222).²

OFFICERS (4):

Qualifications: Same as Elected Directors. (See §§ 5.2, 4.2(a))

Positions: Chairman Of The Board (§ 5.6)
Vice-Chairman Of The Board (§ 5.7)
Secretary (§ 5.8)
Treasurer (§ 5.9)

Term: One year (§ 5.2)

Term Limits: The Chairman and Vice-Chairman are limited to no more than three (3) one-year terms. (§ 5.2)

Election/Appointment: Annually by the Elected Directors (§§ 5.2, 4.2(b))

Removal: The Board may remove an Officer with or without cause. (§ 5.4)

Vacancies: Vacancies exist by virtue of death, removal, or resignation. (§ 5.5)

Filling of Vacancies: Vacancies are filled in the same way the appointments are made (appointment by the Elected Directors) (§§ 5.5, 5.2, 4.2(b)).

EXECUTIVE STAFF (2):

President/CEO: Independent contractor position created in September 2008 responsible for the duties given to him/her by the Board. (§ 5a.1)

President/CEO may not simultaneously serve on the Board. (§ 5a.1)

President/CEO may not vote on any Board or Committee matter. (§ 5a.1)

Executive Secretary: Executive Secretary handles membership and other duties assigned by the Board. (§ 5a.2)

² § 5222(b)(2) provides "[i]f by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class."

BOARD MEETINGS:

Quorum (7 Directors):	A majority (7) of the voting Directors (§ 4.12)
Special Meetings:	May be called by the Chairman or any two (2) Directors for any purpose. (§ 4.8)
Place & Type Of Meeting:	May be held at any place inside or outside the State of California. (§ 4.6) May be held by telephonic or video conference provided that all participants can hear one another. (§ 4.8)
Notice Required:	48 hours if given personally, electronically (e-mail), or telephone; 7 days if given by first-class mail. (§ 4.9)

VOTING BY DIRECTORS & OFFICERS:

Generally:	By majority vote, unless a greater number is specified by law. (Cal. Corp. Code § 5211(a)(8))
Number of Votes:	One director, one vote. (Cal. Corp. Code § 5211(c))
Action without meeting (e-mail vote):	All members of the Board must vote in the affirmative in writing. (§ 4.11) ³
Voting Rights/Limitations of Officers:	Officers have full voting rights on all matters <u>except</u> on the appointment of Officers. (§ 4.2(b))
Voting by proxy:	Prohibited (Cal. Corp. Code § 5211(c))

MEMBERSHIP MEETINGS:

Number Required:	At least once a year. (§ 3.1)
Notice Required:	In writing sent to every member, <u>or</u> published in the Journal at least ten (10) but no more than ninety (90) days before the meeting. (§ 3.3)
Quorum:	Fifty (50) voting members. (§ 3.5(a))
Special Meetings:	May be called by the Chairman or Board of Directors (§ 3.2)

³ The term “all members of the Board,” requires that all Board members vote “yes” for the motion to pass. Any abstentions or “no” votes will defeat the motion.

Upon the request of 5% of the voting membership, the Chairman must call a special meeting. (§ 3.2)

Matters That May Be Considered:

The membership has the authority to initiate motions and vote only on the following matters:⁴

- (1) Parliamentary motions (to accept minutes, recess, adjourn, etc.); (§ 7.7)
- (2) Bylaw amendments relating to the number of Directors and membership voting rights; (§ 8.1)⁵
- (3) Amendment Of Articles Of Incorporation (Cal. Corp. Code § 5812(a))
- (4) Election Of Directors Other Than By Ballot (§ 4.3)
- (5) Any other matter placed before the membership by the Board. (§3.1, 4.1, Cal. Corp. Code § 5210)⁶

Limitations On What May Be Considered:

Unless one-third (1/3) of the voting members are present, only those items of business listed in the meeting notice may be considered. (§ 3.5(a))

Any motion that cannot be resolved by the Board will appear in the notice of the next Annual Meeting for resolution at that time. Resolution may include informing the membership of Board action. (§ 3.1)

VOTING BY MEMBERS:

Generally:

By majority vote, unless a greater number is required by law (§ 3.7)

Action Without Meeting By Ballot:

Authorized, provided that a written ballot be distributed to every member entitled to vote. Approval of proposed action is valid when the number

⁴ Because California law (Cal. Corp. Code § 5210) and ATOS Bylaws Section 4.1 require that all business affairs of the organization be controlled by the Board, the membership does not have the general authority to conduct the business of the organization.

⁵ Only the membership can approve any of the following: (a) a Bylaw specifying or changing the number of Directors; (b) a Bylaw increasing the term of office of Directors; (c) a Bylaw increasing the quorum of members; or (d) a Bylaw repealing, restricting, creating or expanding proxy rights.

⁶ The Board may place a matter before the membership to vote either (1) by virtue of its general power to delegate authority and powers to any person(s) (Cal. Corp. Code § 5210); or (2) by placing the matter in the notice of membership meeting (Bylaws § 3.1)

of votes cast is at least equal to a quorum (50 voting members). (§ 3.8)

Voting By Proxy:

Prohibited (§ 3.9)

EXECUTIVE COMMITTEE (6 & 1 ex-officio)

Composition (6 & 1 ex-officio):

Four Officers (Chairman, Vice-Chairman, Secretary, Treasurer); plus two Board Members. (§ 6.2(a)).

The President/CEO serves as an ex-officio member. (§ 6.2(a)).

Appointment:

The Board appoints the two Directors annually to the Executive Committee. (§ 6.2(a)).

Express Powers:

Like any other committee, the Executive Committee has any power delegated to it by the Board (§ 6.3), including:

- (1) Approval of expenditures up to \$5000;⁷
- (2) Inviting and paying for the expenses of persons it deems essential to a Board meeting;⁸
- (3) Oversight of the Executive Staff and Editor;⁹
- (4) Resolution of disputes between a Chapter and Convention Planning Coordinator about venue and artist selection.¹⁰

Implied Powers:

Any person or committee to which the Board may delegate power may also have implicit authority from the Board to act. Even in the absence of a motion or Board resolution, such implicit powers may be shown through course of business and/or the knowledge and consent of the Board.¹¹

⁷ ATOS Policies ¶ 13(a)

⁸ ATOS Policies ¶ 6(a)

⁹ See generally President/CEO Contract ¶ 1.2; Executive Secretary Contract ¶¶ 1, 3.1, 4.3; Journal Editor Contract ¶¶ 1, 3.1). See also President/CEO Job Description. See also Advertising Manager contract (not currently in effect).

¹⁰ ATOS Convention Handbook § B(16).

¹¹ *Karam v. Travelers Ins. Co.*, 813 F.2d 751 (5th Cir. 1987) (corporation need not draft a resolution or contract authorizing every possible action, as authority could be implied from course of business, Board knowledge, and any presumptions of such knowledge).

NOMINATING COMMITTEE

Composition (up to 5):	No more than five (5) members, <u>none</u> of whom may be an Officer or Director. (§ 6.2(b))
Appointment:	By the Board of Directors (§ 6.2(b))

ENDOWMENT FUND COMMITTEE¹² (BOARD OF TRUSTEES):

Composition (5):	ATOS Treasurer, two (2) members of the Board, and two (2) members of ATOS at large. (§ 6.2(c); RDOT § 2.1)
Appointment:	By the Board of Directors annually. (§ 6.2(c))
Officers / Trustees:	Chairperson (appointed by the ATOS Chairman) Recording Secretary Financial Secretary (the ATOS Secretary) Two Members-At-Large (RDOT § 2.2)
Limitation On Distributions:	With Board approval, grants and/or loans may be made to ATOS Chapters in good standing. (RDOT § 4.1) No more than 90% of accrued earnings from the Fund may be distributed by grant. No more than 25% of Fund principal may be loaned. (RDOT § 4.2)

OTHER COMMITTEES:

Creation/Establishment:	By resolution of the Board. (§ 6.1)
Appointment Of Committee Members:	By the Chairman, <u>except</u> the Nominating Committee and Endowment Fund Committee. (§ 6.1) Nominating and Endowment Fund Committees are appointed by the Board. (§§ 6.2(a), 6.2(b))
Powers:	Any power delegated to it by the Board of Directors. (§ 6.3) or implied through course of business and/or knowledge and consent. ¹³

¹² The ATOS Endowment Fund was established by a Resolution And Declaration Of Trust (“RDOT”). The RDOT establishes a “trust estate” (known as the “Endowment Fund”) from which ATOS gives annual grants to help fund various worthwhile theatre organ projects.

¹³ Karam, supra.