



**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
National Endowment for the Arts**

**Determination of the Chairperson of the National Endowment for the Arts
Regarding Potential Closure of Portions of Meetings of the National Council on
the Arts**

Section 20 U.S.C. 955 (f) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.) authorizes the National Council on the Arts to review applications for financial assistance to the National Endowment for the Arts and make recommendations to the Chairperson.

The Federal Advisory Committee Act (FACA), as amended (Pub. L. 92-463), governs the formation, use, conduct, management, and accessibility to the public of committees formed to advise and assist the Federal Government. Section 10 of that Act directs meetings of advisory committees to be open to the public, except where the head of the agency to which the advisory committee reports determines in writing that a portion of a meeting may be closed to the public consistent with subsection (c) of section 552b of Title 5, United States Code (the Government in the Sunshine Act).

It is the policy of the National Endowment for the Arts that meetings of the National Council on the Arts be conducted in open session including those parts during which recommendations for funding are considered. However, in recognition that the National Endowment for the Arts is required to consider the artistic excellence and artistic merit

of applications for financial assistance and that consideration of individual applications may require a discussion of matters such as an individual artist's abilities, reputation among colleagues, or professional background and performance, I have determined to reserve the right to close limited portions of Council meetings if such information is to be discussed. The purpose of the closure is to protect information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. Closure for this purpose is authorized by subsection (c)(6) of section 552b of Title 5, United States Code.

Additionally, the Council will consider prospective nominees for the National Medal of Arts award in order to advise the President of the United States in his final selection of National Medal of Arts recipients. During these sessions, similar information of a personal nature will be discussed. As with applications for financial assistance, disclosure of this information about individuals who are under consideration for the award would constitute a clearly unwarranted invasion of personal privacy.

Therefore, in light of the above, I have determined that those portions of Council meetings devoted to consideration of prospective nominees for the National Medal of Arts award may be closed to the public. Closure for these purposes is authorized by subsections (c)(6) of section 552b of Title 5, United States Code.

All other portions of the meetings of the National Council on the Arts shall be open to the public unless the Chairperson of the National Endowment for the Arts or a designee determines otherwise in accordance with section 10(d) of the Act.

Further, in accordance with the FACA, the Panel Coordinator shall be responsible for publication in the *Federal Register* of a notice of all advisory committee meetings including the intent to close any portion of the Council meeting. Such notice shall be published in advance of the meetings and contain:

1. Name of the committee and its purposes;
2. Date and time of the meeting, and, if the meeting is open to the public, its location and agenda; and
3. A statement that the meeting is open to the public, or, if the meeting or any portion thereof is not to be open to the public, a statement to that effect.

A record shall be maintained of any closed portion of the Council meeting.

The Office of the Chief of Staff is designated as the office from which lists of committee members may be obtained and from whom minutes of open meetings or open portions thereof may be requested. On July 5, 2016, Chairman of the National Endowment for the Arts Jane Chu, approved the determination to close the meetings.

Dated: July 7, 2016.

Kathy Plowitz-Worden

Committee Management Officer

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