


  
Examiner

  
Name  
Approved

# The Commonwealth of Massachusetts

William Francis Galvin  
Secretary of the Commonwealth  
One Ashburton Place, Boston, Massachusetts 02108-1512

## ARTICLES OF ORGANIZATION (General Laws, Chapter 180)

### ARTICLE I

The exact name of the corporation is:

The Broad Institute, Inc.

### ARTICLE II

The purpose of the corporation is to engage in the following activities:

The Corporation is organized and is to be operated exclusively as a charitable corporation for educational and scientific purposes within the meaning of Chapter 180 of the General Laws of the Commonwealth of Massachusetts as now in force or hereafter amended ("M.G.L. ch. 180") and as an educational, scientific and charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 and the regulations promulgated thereunder (as the same may be amended from time to time, the "Code"), and in particular to operate in connection with Harvard University and the Massachusetts Institute of Technology to promote and carry out the following purposes:

(a) to propel progress in biomedicine through research aimed at the understanding and treatment of disease and the dissemination of scientific knowledge to the scientific community and general public (the "Mission"); and

(b) to conduct such other activities and programs not inconsistent with the Mission and M.G.L. ch. 180 or Section 501(c)(3) of Code as the Corporation may determine to be appropriate.

C ☐  
P ☒  
M ☐  
R.A. ☐

  
P.C.

*Note: If the space provided under any article or item on this form is insufficient, additions shall be set forth on one side only of separate 8 1/2 x 11 sheets of paper with a left margin of at least 1 inch. Additions to more than one article may be made on a single sheet so long as each article requiring each addition is clearly indicated.*

### ARTICLE III

A corporation may have one or more classes of members. If it does, the designation of such classes, the manner of election or appointments, the duration of membership and the qualification and rights, including voting rights, of the members of each class, may be set forth in the by-laws of the corporation or may be set forth below:

There shall be one class of members of the Corporation. The membership of the Corporation shall consist of three members: the Massachusetts Institute of Technology ("MIT"), President and Fellows of Harvard College ("Harvard") and The Eli and Edythe Broad Foundation (the "Foundation"). The Foundation shall remain a member until the later of (i) the date of death of Eli or Edythe Broad, whichever survives the other and (ii) the fifteen (15) year anniversary of the Closing (as defined in that certain Formation and Contribution Agreement, dated September 4, 2008, by and among MIT, Harvard and the Foundation (the "Formation and Contribution Agreement"), at which time the Foundation shall cease to be a member. MIT and Harvard each shall remain a member in perpetuity, subject to the earlier withdrawal or resignation by either member in accordance with the Operating Agreement attached as an exhibit to the Formation and Contribution Agreement, as such Operating Agreement may be amended from time to time.

### ARTICLE IV

\*\*Other lawful provisions, if any, for the conduct and regulation of the business and affairs of the corporation, for its voluntary dissolution, or for limiting, defining, or regulating the powers of the corporation, or of its directors or members, or of any class of members, are as follows:

See Attachment Sheet- Article IV

### ARTICLE V

The by-laws of the corporation have been duly adopted and the initial directors, president, treasurer and clerk or other presiding, financial or recording officers, whose names are set out on the following page, have been duly elected.

*\*\*If there are no provisions, state "None".*

*Note: The preceding four (4) articles are considered to be permanent and may only be changed by filing appropriate Articles of Amendment.*

#### **ATTACHMENT SHEETS- ARTICLE IV**

Other lawful provisions for the conduct and regulation of the affairs of the corporation, for its voluntary dissolution, or for limiting, defining, or regulating the power of the Corporation, or of its directors, officers, or members, are as follows:

A. Solely in furtherance of the purposes set forth in Article II hereof, and only in a manner consistent with the provisions of Section 501(c)(3) of the Code, the Corporation shall have and exercise all of the powers conferred upon nonprofit corporations under M.G.L. ch. 180, and shall have the power to do everything necessary or appropriate to accomplish any of the purposes set forth in Article II to the extent permissible under the laws of the Commonwealth of Massachusetts, and not inconsistent with any other provisions of these Articles of Organization or the Bylaws, including, without limitation, the following powers:

- (a) the Corporation shall have perpetual succession in its name;
- (b) the Corporation may sue and be sued;
- (c) the Corporation may have a corporate seal which it may alter at pleasure;
- (d) the Corporation may elect or appoint directors, officers, employees and other agents, fix their compensation and define their duties and obligations;
- (e) the Corporation may purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real and personal property, or any other interest therein, wherever situated, in an unlimited amount;
- (f) the Corporation may solicit and receive contributions from any and all sources and may receive and hold, in trust or otherwise, funds received by grant, gift, devise, bequest or otherwise;
- (g) the Corporation may sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage, pledge, encumber or create a security interest in, all or any of its property, or any interest therein, wherever situated;
- (h) the Corporation may purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, use and otherwise deal in and with, bonds and other obligations, shares, or other securities or interests issued by others, whether engaged in similar or different business, governmental, or other activities;
- (i) the Corporation may make contracts, give guarantees in furtherance of its corporate purposes and incur liabilities, borrow money at such rates of interest as the Corporation may determine, issue its notes, bonds and other obligations, and secure any of its obligations by mortgage, pledge or encumbrance of, or security interest in, all or any of its property or any interest therein, wherever situated;

(j) the Corporation may lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(k) the Corporation may do business, carry on its operations, and have offices and exercise the powers granted by M.G.L. ch. 180, in any jurisdiction within or without the United States, although the Corporation shall not be operated for the primary purpose of carrying on for profit a trade or business unrelated to its tax exempt status;

(l) the Corporation may make donations, irrespective of the Corporation's benefit, for the public welfare or for educational, scientific, civic or similar purposes, and in time of war or other national emergency in aid thereof; provided that, as long as the Corporation is entitled to exemption from federal income tax under Section 501(c)(3) of the Code, it shall make no contribution for other than religious, charitable, scientific, literary, educational purposes and/or for the prevention of cruelty to children or animals;

(m) the Corporation may pay pensions, and establish and carry out pensions, savings, thrift and other retirement and benefit plans, trusts and provisions for any or all of its directors, officers and employees;

(n) the Corporation may be an incorporator of other corporations or limited liability entities of any type or kind;

(o) the Corporation may be a partner with one or more other organizations in any enterprise that furthers the purposes of the Corporation; and

(p) meetings of the members may be held anywhere within or without the Commonwealth of Massachusetts in accordance with applicable law.

B. Notwithstanding any thing else provided herein, the Corporation is organized and shall be operated exclusively for educational, scientific or charitable purposes, as said terms have been and shall be defined pursuant to Section 170(c) and 501(c)(3) of the Code. All powers of this Corporation shall be exercised only in such manner as will assure the operation of this Corporation exclusively for said educational, scientific or charitable purposes, as so defined, it being the intention that this Corporation shall be exempt from federal income tax and that contributions to it shall be deductible pursuant to said sections of said Code, and all purposes and powers herein shall be interpreted and exercised consistently with this intention. Accordingly:

(a) the Corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from Federal income tax under Section 501(c)(3) of the Code;

(b) no part of the assets or net earnings of the Corporation shall inure to the benefit of any member, director, officer, employee or member of a committee of, or person connected with, the Corporation, or any other private individual; provided, however, that this shall not prevent the payment to any such person of reasonable compensation for services rendered to or for the Corporation in effecting any of its purposes set forth in Article II hereof;

(c) in the event of the liquidation, dissolution or winding up of the Corporation (whether voluntary, involuntary or by operation of law), the Corporation's property or assets

shall not be conveyed or distributed to any director, officer, employee or member of a committee of, or person connected with, the Corporation, or any other private individual, nor to any organization created or operated for profit; but, after all obligations of the Corporation including obligations relating to gifts have been discharged and after deducting all necessary expenses of liquidation, dissolution or winding up, as the case may be, remaining property and assets of the Corporation, to the extent available, shall, except as otherwise required by law, be distributed pursuant to M.G.L. ch. 180, §11A in such shares and for such purposes as the members shall approve, to organizations then qualifying under Section 501(c)(3) of the Code, to be used for purposes that are, in the discretion of the members, found to be consistent with the purposes of this Corporation, which organizations may include Harvard and MIT;

(d) except to the extent permitted by the Code, the Corporation shall not carry on propaganda or otherwise attempt to influence legislation, and the Corporation shall not participate in or intervene in (including by the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office; and

(e) during any period when the Corporation is determined to be a "private foundation" as defined in Section 509 of the Code, the Corporation, in accordance with the following sections thereof, shall: (i) distribute such amounts for each taxable year at such time and in such manner as not to subject the Corporation to tax on undistributed income under Section 4942; (ii) not engage in any act which is subject to tax as self dealing under Section 4941; (iii) not retain any holdings which are subject to tax as excess business holdings under Section 4943; (iv) not make any investments in such manner as to subject the Corporation to tax under Section 4944; and (v) not make any taxable expenditures which are subject to tax under Section 4945.

C. The Corporation shall have Bylaws. The Bylaws shall govern, in all respects, the operation of the Corporation to the extent not inconsistent with these Articles of Organization or any applicable law.

D. The Corporation shall, to the fullest extent legally permissible and only to the extent that the status of the Corporation as an organization exempt under Section 501(c)(3) of the Code is not affected thereby, indemnify each of its directors, officers, members, employees and other agents (including persons who serve at its request as directors, officers, members, employees or other agents of another organization in which it has an interest) against all liabilities, including without limitation amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and expenses and counsel fees reasonably incurred by such individual in connection with the defense or disposition of any action, suit, or other proceeding, whether civil or criminal, in which such individual may be involved or with which such individual may be threatened, while in office or thereafter, by reason of such individual's being or having been such a director, officer, member, employee or agent, except with respect to any matter as to which such individual shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that such individual's action was in or at least not opposed to the best interests of the Corporation; provided, however, that as to any matter disposed of by a compromise payment by such director, officer, member, employee or agent, pursuant to a consent decree or otherwise, no indemnification either for said payment or for any other expenses shall be provided unless such compromise shall be approved as in the best interest of

the Corporation, after notice that it involves such indemnification: (a) by a disinterested majority of the directors then in office; or (b) by a majority of the disinterested directors then in office, provided that there has been obtained an opinion in writing of independent legal counsel to the effect that such director, officer, employee or agent appears to have acted in good faith in the reasonable belief that such individual's action was in, or at least not opposed to, the best interests of the Corporation. Expenses, including counsel fees, reasonably incurred by any such director, officer, member, employee or agent in connection with the defense or disposition of any such action, suit or other proceeding, may be paid from time to time by the Corporation in advance of the final disposition thereof upon receipt of an undertaking by such individual to repay the amounts so paid to the Corporation if such individual shall be adjudicated to be not entitled to indemnification under this paragraph, which undertaking may be accepted without regard to the financial ability of such individual to make repayment. The right of indemnification hereby provided shall not be exclusive of nor affect any other rights to which any director, officer, member, employee or agent may be entitled. Nothing contained herein shall affect any rights to indemnification to which corporate personnel may be entitled by contract or otherwise under law. As used in this paragraph, the terms "directors", "officers", "members", "employees" and "agents" include their respective heirs, executors and administrators and an "interested" director is one against whom in such capacity the proceeding in question or another proceeding on the same or similar grounds is then pending.

E. No director or officer of the Corporation shall be personally liable to the Corporation or its members for monetary damages for breach of fiduciary duty as a director, or officer notwithstanding any provision of law imposing such liability, provided, however, that this paragraph shall not eliminate or limit the liability of a director or officer of the Corporation (i) for any breach of the director's or officer's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, or (iii) for any transaction from which the director or officer derived an improper personal benefit. No amendment, modification or repeal of this paragraph, directly or by adoption of an inconsistent provision of these Articles, shall apply to or have any effect on the liability or alleged liability of any director or officer of the Corporation for or with respect to any acts or omissions of such director or officer occurring prior to such amendment, modification or repeal.

F. The directors may not make, amend or repeal the Bylaws in whole or in part unless and to the extent expressly stated in the Bylaws.

G. Each member, acting solely through its President or Provost (with respect to MIT and Harvard) or Trustee (with respect to the Foundation), shall have the right to request from time to time and to receive any information regarding the structure, financial condition, activities and personnel of the Corporation that the Corporation has not otherwise delivered or made available to the directors upon the request of one or more directors.

H. These Articles of Organization may only be amended by the unanimous consent of the members.

#### ARTICLE VI

The effective date of organization of the corporation shall be the date approved and filed by the Secretary of the Commonwealth. If a *later* effective date is desired, specify such date which shall not be more than *thirty days* after the date of filing.

#### ARTICLE VII

The information contained in Article VII is not a permanent part of the Articles of Organization.

- a. The street address (post office boxes are not acceptable) of the principal office of the corporation *in Massachusetts* is:  
7 Cambridge Center, Cambridge, MA 02142
- b. The name, residential address and post office address of each director and officer of the corporation is as follows:

	NAME	RESIDENTIAL ADDRESS	POST OFFICE ADDRESS
President:	Eric Lander	74R Fayerweather Street Cambridge, MA 02138	7 Cambridge Center, Cambridge, MA 02142
Treasurer:	Diane MacDonald	57 Scribner Waye East Bridgewater, MA 02333	7 Cambridge Center, Cambridge, MA 02142
Clerk:	Alan Fein	30 Arlington Street Cambridge, MA 02140	7 Cambridge Center, Cambridge, MA 02142
Directors: (or officers having the powers of <i>directors</i> )	Eric Lander	74R Fayerweather Street Cambridge, MA 02138	7 Cambridge Center, Cambridge, MA 02142

- c. The fiscal year of the corporation shall end on the last day of the month of:

June

- d. The name and business address of the resident agent, if any, of the corporation is:

Corporation Service Company, 84 State Street, Boston, MA 02109

I/We, the below signed incorporator(s), do hereby certify under the pains and penalties of perjury that I/we have not been convicted of any crimes relating to alcohol or gaming within the past ten years. I/We do hereby further certify that to the best of my/our knowledge the above-named officers have not been similarly convicted. If so convicted, explain.

IN WITNESS WHEREOF AND UNDER THE PAINS AND PENALTIES OF PERJURY, I/we, whose signature(s) appear below as incorporator(s) and whose name(s) and business or residential address(es) *are clearly typed or printed* beneath each signature, do hereby associate with the intention of forming this corporation under the provisions of General Laws, Chapter 180 and do hereby sign these Articles of Organization as incorporator(s) this 11th day of September, 20 08.

  
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Daniel L. Kurtz, Esq.

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Holland & Knight, LLP

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195 Broadway, New York, NY 10007

*Note: If an existing corporation is acting as incorporator, type in the exact name of the corporation, the state or other jurisdiction where it was incorporated, the name of the person signing on behalf of said corporation and the title he/she holds or other authority by which such action is taken.*

RECEIVED  
SEP 11 2008  
SECRETARY OF THE COMMONWEALTH  
CORPORATIONS DIVISION

THE COMMONWEALTH OF MASSACHUSETTS

ARTICLES OF ORGANIZATION

(General Laws, Chapter 180)

0900092897

I hereby certify that, upon examination of these Articles of Organization, duly submitted to me, it appears that the provisions of the General Laws relative to the organization of corporations have been complied with, and I hereby approve said articles; and the filing fee in the amount of \$ 35 having been paid, said articles are deemed to have been filed with me this 11 day of Sept 20 08.

1063753

Effective date:

September 11, 2008

*William Francis Galvin*

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

SECRETARY OF THE  
COMMONWEALTH  
2008 SEP 11 PM 1:38  
CORPORATION DIVISION

TO BE FILLED IN BY CORPORATION

Contact information:

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