

SAMPLE

**POLICY FOR THE CREATION OF A HEALTHY AND RESPECTFUL WORKPLACE
FREE OF DISCRIMINATION, HARASSMENT AND VIOLENCE**



The Association des théâtres francophones du Canada has developed this sample policy for its members with the support of Théâtre Action.

CONTENT

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STATEMENT

(Name of the company) commits to provide a workplace free from any type of harassment, violence and discrimination where all staff members, invited artists, cultural workers, trainers, participants, members of the public and volunteers are treated with respect and dignity.

Harassment, discrimination, violence, sexual misconduct and abuse of power cannot be tolerated in any workplace because they weaken team spirit and create an unhealthy and toxic environment. All employees, artists, cultural workers, trainers, participants, volunteers or anyone involved in our activities have to be able to work in a safe and respectful workplace and must know the relevant procedure when it is necessary to report, without fear of reprisal, cases of harassment, discrimination, violence, sexual misconduct and abuse of power or any other behavior that contributes to an unhealthy work environment.

At (Name of the company), we believe that everybody deserves to be treated with dignity and mutual respect. Our objective is to provide a workplace that promotes fairness of opportunities and prohibits harassment, violence and discriminatory practices.

(Name of the company) must comply with human rights, and is subject to the employment standards statutory obligations relating to occupational health and safety. Therefore, in accordance with the provisions of the (province) Human Rights Code, (Name of the company), its employees, contractors, administrators, volunteers, clients and suppliers are prohibited from engaging in any type of discrimination or harassment based on race, ancestry, birth place, color, ethnicity, citizenship, beliefs, sexual orientation, gender identity, gender expression, age, criminal record, marital status, family status or disability, or any other factor protected by the applicable provincial law regarding human rights against any staff member, contractor, administrator, volunteer, client or supplier.

(Name of the company) commits to provide a workplace free from any type of harassment, violence and discrimination and recognizes for this purpose the following objectives:

- Providing a workplace free from any type of harassment, violence and discrimination for its staff;
- Providing a workplace where staff recognize and apply this policy;
- Providing a workplace where staff can raise concerns about inappropriate behaviors or make a complaint without fear of reprisal;
- In the case of a complaint alleging a violation of this policy, providing staff with a complaint process that is professional, transparent and effective;
- In the case of a complaint alleging a violation of this policy, providing staff with a complaint process where the parties involved will benefit from the principles of natural justice, by learning of the allegations against them and having the opportunity to respond to them;
- Keeping the parties that are directly involved informed of the complaint's progression, the conclusions of the investigation, and whenever possible, the decisions resulting from the complaint and the investigation;
- In the case of a legitimate complaint, implementing, as soon as possible, appropriate measures that respond to allegations and eliminate all types of harassment, violence and discrimination;
- Providing staff with a process to handle complaints and to solve the problem internally, without preventing the complainant from pursuing another recourse if he or she deems it appropriate; and

- Periodically reviewing this policy so that it can evolve and respond to staff needs in order to eliminate all types of harassment, violence and discrimination.

APPLICATION

This policy applies to the staff at (Name of the company).

This policy also applies to the Board of Directors, the public, participants, volunteers and suppliers that provide services to (Name of the company).

This policy applies to all behaviors related to the work or functions of staff members, including during meetings, rehearsals, workshops, performances, etc. at our facilities or elsewhere, as well as during training and work trips.

However, this policy does not aim to limit or impede (Name of the company)'s right to manage. Performance reports, attendance and absenteeism management, work evaluations and disciplinary measures imposed for valid reasons do not constitute harassment or discrimination in the workplace. This right to manage might seem inconvenient or be disappointing to some employees, but it does not on its own constitute harassment, discrimination or abuse of power.

CONFIDENTIALITY

As part of its complaint process, (Name of the company) will try to put in place the necessary parameters in order to ensure, whenever possible, confidentiality and the privacy of information.

The name of the complainant, circumstances of the complaint, investigation reports, complaints, witness statements and other documents or information produced in accordance with this policy will be kept strictly confidential by (Name of the company), except when disclosure is necessary as part of the investigation or if otherwise required by this policy, or if the information is necessary to handle the complaint, conduct the investigation, or impose disciplinary or administrative measures.

Therefore, information may be shared, notably:

- When it might be of a criminal nature;
- When we deem it necessary to protect others against harassment or acts of violence;
- When fairness and the right to natural justice must be ensured as part of the procedures within this policy;
- As provided under applicable laws regarding occupational health and safety;
- When required by law or court order; and
- For the protection of (Name of the company)'s interests.

All involved parties in a complaint must respect the confidentiality of information of other parties involved, must refrain from discussing the complaint except with those that need to be informed and must act with professionalism and discretion during the complaint process.

1. DEFINITIONS

1.1 DISCRIMINATION REFERS TO:

The act of treating a group or an individual within a group differently, based on prejudice or negative attitudes.

Discrimination on grounds of race, ancestry, birth place, color, ethnicity, citizenship, beliefs, sexual orientation, gender identity, gender expression, age, criminal record, marital status, family status or disability, or any other factor protected by the applicable provincial law regarding human rights is prohibited.

1.2 HARASSMENT REFERS TO:

The act of engaging in a course of vexatious comments or conducts, intimidation or threats against someone in a workplace when they know or ought reasonably to know that these comments or conducts are unwelcomed.

Harassment in the workplace also includes sexual harassment on grounds of sex, sexual orientation, gender identity or gender expression.

Therefore, everybody has the right to be free from:

- a) sexual solicitations or advances made by a person in a position to grant or deny a benefit or a promotion if the person making the solicitations or advances knows or ought reasonably to know that it is unwelcomed;
- b) reprisals or threats of reprisal for refusing sexual solicitations or advances made by a person in a position to grant or deny a benefit or a promotion.

1.3 WORKPLACE VIOLENCE REFERS TO:

The use or attempted use of physical force against a staff member in a workplace that causes or might cause physical harm.

It also refers to comments or behaviors in a workplace that might reasonably be constructed by a staff member as a threat of physical force which could cause him or her physical damage.

1.4 UNHEALTHY WORKPLACE REFERS TO:

A workplace where an activity or a behavior, not necessarily directed at anyone in particular, creates a hostile or offensive work environment.

1.5 ABUSE OF POWER OR AUTHORITY REFERS TO:

The act, by a person in a position of power, of inappropriately using the authority and power inherent in their position or functions to endanger someone's job, undermine their performance, put their livelihood at risk, or in any way interfere with their career or job. It refers to authority in a manner which serves no legitimate work purpose and ought reasonably to be known to be inappropriate. Abuse of power is included in a broader definition of harassment.

1.6 STAFF MEMBER REFERS TO:

(Name of company) staff, whether they are full-time, part-time, occasional, contractual, permanent, temporary, and regardless of the contractual relation with (Name of the company).

1.7 WORKPLACE REFERS TO:

Any place where employees work or perform tasks related to their functions. Production sites or meeting places outside of (Name of company) head office are also included in the definition of workplace.

1.8 COMPLAINANT REFERS TO:

The alleged victim of harassment, violence or discrimination.

1.9 RESPONDENT REFERS TO:

The person who is alleged to have committed an offense by the complainant.

2. ROLES AND RESPONSIBILITIES

2.1 (NAME OF THE COMPANY) MUST:

- provide a workplace free from all types of harassment, discrimination or violence;
- ensure that staff is aware and informed of this policy;
- post this policy and all other related policies at all workplaces;
- evaluate the risks of workplace violence as often as needed in order to ensure that this policy and related policies continue to protect staff against workplace violence;
- inform staff about risks of violence by another staff member who has a history of violent behavior, if other staff members will be working directly with this person and if other staff members are exposed to risks of violence. (Name of the company) will only divulge what is strictly necessary in order to protect its staff in these circumstances;
- take all reasonable precautions to protect a staff member who knows or is aware that domestic violence could occur in the workplace and expose an employee to physical harm. This only applies when the risk exists in the workplace;
- put in place forms to report incidents and follow-up procedures to help the complainant and the respondent;
- select a person who will be responsible for monitoring discrimination, harassment and violence in the workplace; and
- review the policy and modify it as needed.

2.2 (NAME OF THE COMPANY)'S MANAGEMENT MUST:

- foster a workplace free from all types of harassment, discrimination and violence and set an example through their own appropriate behavior at work at all times;
- understand and ensure the application of the policy;
- communicate the policy to all staff members under their authority;
- verify that service providers and external parties (volunteers, etc.) are made aware of this policy;

- review complaints, as the case may be;
- verify if the allegations of harassment, discrimination or violence are legitimate;
- determine the necessary corrective or disciplinary measures; and
- act and use their authority and power to prevent acts of discrimination, harassment and violence in the workplace.

2.3 SUPERVISORS MUST:

- foster a workplace free from all types of harassment, discrimination and violence and set an example through their own appropriate behavior at work at all times;
- understand and ensure the application of the policy;
- deal with, and not ignore cases of harassment, discrimination and violence as soon as they are made aware of it, whether a complaint is made or not; and
- explain the investigation process and the complaint process to staff members; cooperate in the investigation process, including allowing staff members to take time off to participate in the investigation process as needed.

2.4 INDIVIDUALS MUST:

- show respect for their colleagues by behaving appropriately at work at all times. This refers to a behavior free from harassment, discrimination or violence;
- report to their supervisor (or person in a position of authority), and above all not ignore situations of harassment, discrimination or violence; and
- cooperate in the investigation process as needed.

2.5 INDIVIDUALS CAN EXPECT:

- to be treated with respect and dignity at work;
- that situations of harassment, discrimination or violence will not be tolerated;
- that situations of harassment, discrimination or violence will be treated promptly;
- to be allowed a fair process during an investigation process; and
- not to be subject to reprisal for reporting concerns about a behavior, a case of harassment, discrimination or violence, or for having participated to an investigation.

3. THE RIGHT TO COMPLAIN

Individuals have the right to lodge a complaint when potential situations of discrimination, harassment or violence occur.

4. COMPLAINT FILING PROCEDURES

The following procedure serves as a guideline for (Name of the company) when filing a complaint. Considering the potential scope of complaints, this procedure cannot dictate the handling of every complaint, and (Name of the company) is capable of determining the required and necessary steps to take when filing a complaint by taking into account circumstances surrounding the events and the reported incidents, complexity of facts, seriousness of allegations and involved parties, etc.

4.1 FILING A COMPLAINT

- Anybody who believes to be a victim of discrimination, harassment or violence can file a complaint with senior management;
- In the event that senior management is involved in the case, the complainant will then turn to the President of the Board of Directors or the human resources committee;
- The complaint may be verbal or written. If the complaint is verbal, the person receiving the complaint will record in detail the information given by the complainant;
- To the extent possible, the complainant must provide detailed information, such as a description of events; date and time; location; frequency of incidents and names of everyone present (if it applies). The complaint must reflect the facts and cannot be false or defamatory in nature;
- The complaint must be filed as soon as possible by the complainant. (Name of the company) reserves the right to refuse to investigate allegations for which it would be, because of delays, unfair, impossible or too costly to retrieve the evidence required to evaluate the complaints;
- Senior management or the President of the Board of Directors, according to circumstances, will notify the respondent by writing that a complaint has been made against him or her. The letter must include details of the allegations. Every effort will be made to settle the complaints of harassment in a reasonable period. For the sake of transparency, parties will be informed of timelines and delays as part of the process undertaken by (Name of the company);
- In light of the complaint, senior management or the President of the Board of Directors can determine if temporary measures are necessary and required in these circumstances in order to limit contact between the complainant and the respondent; and
- No one will be punished for reporting in good faith an incident or for participating in an investigation.

4.2 MEDIATION

- Whenever possible, mediation will be suggested to the parties involved to settle the complaint before proceeding with an investigation;
- The mediation process is voluntary and confidential;
- This process aims to help the parties come to a possible solution to the case reported in the complaint;
- The mediator will be a neutral person acceptable to both parties;
- The mediator will not participate in the investigation of the complaint; and
- Each party involved will be allowed to be accompanied and helped by a person of their choosing.

4.3 INVESTIGATION

- If the situation does not allow for mediation or if mediation does not lead to a settlement of the complaint, an investigation may be initiated by (Name of the company);
- Every investigation will be lead by a person with the necessary training and experience. In certain cases, (Name of the company) may entrust the investigation to an external consultant. The investigator will meet with the complainant, the respondent and all identified witnesses. All interviewees will be allowed to review

their own statement, compiled from the investigator's notes, to verify its accuracy before the end of the investigation;

- The investigator will draft a report for (Name of the company), which will include:
 - a description of the allegations;
 - a response from the person who is the subject of the complaint;
 - a summary of the witnesses' testimonies (if applicable);
 - the investigation's conclusion which will determine if the complaint is legitimate, in all likelihood, and if there was violation to this policy.
- The report will be submitted to senior management or the President of the Board of Directors (according to circumstances);
- (Name of the company) can also ask the investigator to prepare a summary report that would protect the witnesses' identity and the confidentiality of information gathered through the investigation;
- If he or she deems it appropriate, the investigator can provide (Name of the company) with recommendations while avoiding to voice his or her opinion in regards to the disciplinary measures required, when necessary; and
- The complainant and the respondent will be informed of the conclusions of the investigation and the correctives measures, when necessary.

4.4 CORRECTIVE MEASURES AND FOLLOW-UP

- When a complaint is found to be legitimate, (Name of the company) will decide on measures and follow-ups to be taken. Disciplinary measures ranging from a simple warning to a discharge may be imposed.
- If however, the investigation revealed that the complaint was unfounded, (Name of the company) could also, at its sole discretion, take measures such as:
 - provide training to employees or put in place measures to improve communication between staff members;
 - review certain organisational practices or policies;
 - conclude that no action is required; or
 - any other measure that (Name of the company) may deem appropriate in these circumstances.

4.5 REPORTS

- When a complaint leads to disciplinary measures against the staff member responsible for the incident, a report documenting the agreed upon measures will be drafted and inserted into the staff member's file. All other documents related to the incident (i.e. initial complaint, investigation report, etc.) will be filed separately from the personal files of those involved in a sealed envelope accessible only by senior management or the Board of Directors according to the limits prescribed by this policy regarding confidentiality.

5. DISCIPLINARY MEASURES

Any violation to this policy, including making a wrongful incident report, can lead to disciplinary measures or sanctions. The disciplinary measure or sanction can range from a simple warning to a discharge, or to dismissal in the case of a Board member, according to the severity, scope, recurrence, and repetition of the offence or offences committed. Anybody interviewed as part of

an investigation must cooperate in the investigation process in good faith, with honesty and integrity. Anybody who provides false information or who refuses to cooperate fully during the investigation is subject to disciplinary measures.

Of course, a staff member who raises a concern in good faith related to a case of harassment, discrimination, violence or abuse of power, or who makes a complaint in this regard, will not be subject to reprisals for sharing his or her concerns.

Therefore, it is strictly forbidden for anybody to utter threats or to take actions against a staff member who invokes this policy or who participates in the investigation process. All infringement of this nature to this policy will be subject to disciplinary measures which could go as far as dismissal.

6. REQUEST FOR INFORMATION

All requests for information related to the policy and the procedures must be sent to senior management, the President of the Board of Directors or the human resources committee.

Policy adopted on _____

Policy revised on _____