

Canadian Actors'

EQUITY

Association

**RESPECTFUL
WORKSPACE
POLICY**

Amended 01/18/2018

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PREAMBLE

Artists working in live performance have a right to workspaces free from personal and sexual harassment or violence*.

Equity is committed to:

- (a) the pursuit of safe and respectful workspaces for artists working under its contracts; and
- (b) support for those who have experienced or witnessed workspace behaviours that do not reflect these standards.

* See Appendix A for Definitions and Concepts

I WHO IS COVERED BY THIS POLICY?

The protections under this policy apply to:

- (i) Equity members both under contract and while pursuing engagements; and
- (ii) non-members in the workspace who experience personal and sexual harassment or violence, from an Equity member.

Note: Equity has a separate and parallel safe and respectful workplace policy that applies to the conduct of its own organizational business

II WHERE DOES THIS POLICY APPLY?

This policy applies to:

- (i) all workspaces where artists work under an Equity contract;
- (ii) extensions to formally contracted workspaces, as determined by Equity's contracts; and
- (iii) any additional work-related spaces such as:
 - (a) transportation and accommodation on tour;
 - (b) engager-organized social events;
 - (c) other events related to work;
 - (d) auditions;
 - (e) interviews, etc.

Note: In some circumstances, this policy may apply to interactions that occur outside of the above-listed spaces, where the interactions or their repercussions have a strong potential to impact the workspace (i.e., social events for cast members).

III WHEN DOES THIS POLICY NOT APPLY?

The policy does not apply to the following situations:

- (i) expressing differences of opinion;
- (ii) offering constructive feedback, guidance, or advice about work-related behaviour and performance;
- (iii) making legitimate complaints about someone's conduct through established procedure;
- (iv) providing reasonable direction to an individual in order to have the person improve his or her performance.

IV FAIRNESS FOR ALL

Equity recognizes its obligation to ensure that this policy and its procedures are fair. Complainants must feel free to bring their workspace issues forward. Those against whom allegations are made must have a full and fair opportunity to respond. When both the complainant and respondent are covered by the protections under this policy, Equity will listen to both parties to a complaint and provide a fair, unbiased third-party response, mediation, investigation and/or remedy as necessary.

V SHARED RESPONSIBILITY

Engagers, artists and Equity share responsibility for creating and maintaining respectful workspaces. For the engager, that obligation is spelled out in government workplace legislation, as well as in our various contracts and policies.

Artists, too, have obligations in the workspace, which are covered in Equity's bylaws. As a professional association, we have a responsibility to educate all appropriate parties on standards and response options, and to assist those protected by this policy to achieve a timely resolution when these standards are not met.

VI PREVENTION THROUGH EDUCATION

The primary purpose of this policy is to prevent personal and sexual harassment or violence from occurring in the first place. Where issues do arise, this policy provides a resolution-oriented process for receiving and investigating allegations of prohibited workspace behaviour.

To this end, Equity is committed to working with its partner engagers to ensure that all members and applicable employees are made aware of workspace expectations in this area, as well as to providing resources and fair and impartial recourse when these expectations aren't met.

Equity produces specific informational material on respectful workspaces, arranges first day talks in concert with engager representatives, and publishes cyclical reminders and updates through its various communication streams. Equity also produces specific educational material for its stage managers and deputies, describing inappropriate workspace behaviours under this policy, as well as frontline strategies for dealing with any issues.

VII RIGHT TO GO ELSEWHERE

This policy provides internal mechanisms to address personal and sexual harassment or violence involving Equity members quickly and fairly. At the same time, nothing in the policy is intended to prevent or discourage a complainant from choosing an alternative resolution process or legal action.

For example, human rights violations that relate to what is known as a protected ground may warrant the intervention of a provincial human rights tribunal. More information about protected grounds can be found in Appendix A. If a complainant pursues such an alternative, Equity may decide to terminate or suspend its internal response procedures.

VIII REPRISAL

Equity prohibits reprisal or threat of reprisal against individuals who make use of this policy, or who participate in proceedings as part of the response process. If Council determines that there are sufficient grounds to believe that members have engaged in reprisal or threats of reprisal, Equity may commence the disciplinary proceedings provided for in its bylaws.

IX DEFINITION OF TERMS

This policy relies on the common definitions and concepts noted in Appendix A.

X THE SUPPORT AND RESPONSE PROCESS

Equity is committed to addressing allegations of workspace issues covered by this policy, to assist in finding an appropriate resolution and, when necessary, to investigate alleged infringements. Consequences can include:

- (i) reprimand;
- (ii) remedial action;
- (iii) fines;
- (iv) suspension; or
- (v) expulsion from membership.

Restorative justice may also be considered as part of the resolution process. It emphasizes a non-adversarial, non-retributive approach to justice encouraging healing in victims and the meaningful accountability of offenders.

In what follows, use of the singular “complainant,” “respondent” or “member” shall be understood to equally apply in the plural where such is the case.

Before contacting the Equity office, a complainant is strongly encouraged to write down some notes on the occurrences experienced or witnessed and to gather any relevant documentation.

This documentation and recollection of events will be very useful in helping everyone understand the situation. Suggested guidelines for note taking appear in Appendix B at the end of this policy.

The response options under this policy range from consulting with Equity, informal or formal reporting to the engager, an investigation process or disciplinary action by Equity Council. These are not mutually exclusive as an effective response may combine elements of all approaches.

XI CONSULTATION WITH EQUITY

Any person who experiences or witnesses personal and sexual harassment or violence is encouraged to contact a Respectful Workspace Advisor (RWA) who will listen and provide an informed and supportive strategy for addressing concerns. Initial inquiries will be answered by trained office staff who will then connect individuals to an RWA.

An RWA can be reached during national office hours at 1-800-387-1856. In emergency situations, Equity staff can also be reached after office hours at the same number.

The RWA will be able to offer general information and present the complainant with a range of response options. He or she will:

- (i) listen and make confidential notes about the workspace concern(s);
- (ii) note if the complainant believes that his or her safety (or that of others) is at risk or threatened and take appropriate action;
- (iii) identify that the complainant has the right to file a formal complaint with the engager, and assist with that process, if requested;
- (iv) identify that the complainant has the right to withdraw from any further action at any point;
- (v) identify that the complainant has the right to use avenues of recourse outside this policy, and that such action may suspend or terminate action taken within this policy;
- (vi) identify the time limits which apply to the process under this policy;
- (vii) address issues of confidentiality and anonymity related to this response process;
- (viii) identify additional resources that Equity or sister organizations have available;
- (ix) discuss with the complainant how they wish to proceed; and
- (x) follow up to determine the status of the situation and provide ongoing support as needed.

Notes taken by the RWA are intended to supplement the complainant's own notes, and will be kept for at least twelve months after the last of the incidents reported. They may be retained longer if they are submitted as part of a more formal complaint process (see below), or where corroborative reports from other occurrences suggest there is a pattern of behaviour warranting longer-term monitoring.

XII INFORMAL RESPONSE

The goal of this response option is to provide support for both victims and witnesses (potential complainants) so that problematic behaviour is dealt with quickly and efficiently.

An informal response may be used when the issue is relatively minor in nature and may be resolved through informal discussions with the relevant parties.

The RWA will present a range of informal strategies for resolving the problem quickly, which may include:

- (i) locating and reviewing the engager's harassment policy;
- (ii) suggesting different response mechanisms;
- (iii) suggesting different approaches for discussing the concern;
- (iv) contacting key production personnel on the complainant's behalf if requested.

XIII FORMAL REPORTING TO THE ENGAGER

Engagers are legally and contractually responsible for what goes on in their workspaces and have specific statutory obligations to prevent and address workplace personal and sexual harassment or violence.

In some circumstances, a formal complaint to the engager may be necessary. The engager is legally required to have a formal workplace harassment policy and is required to address complaints in accordance with the policy and the law.

Some examples of when a formal complaint to the engager may be required include:

- if the result of an informal response is unsatisfactory (does not resolve the problem or if any party is dissatisfied);
- if there has been an act of physical violence;
- if anyone associated with the production/performance uses threatening language toward anyone else associated with the production;
- if anyone feels pressured into divulging personal information or to engage in a personal non-platonic relationship with anyone else associated with the production;
- if anyone commits a non-consensual sexual act or uses sexually explicit language or gestures toward anyone else associated with the production; or
- if someone uses their position of power to get anyone associated with the production to engage with them in a non-platonic manner.

When there is a serious incident, an engager should immediately inform Equity and ensure the safety of everyone; ensure appropriate medical treatment is provided or sent for, if required; and contact the appropriate authorities as soon as possible.

Although not an easy thing to do, formal reporting involves talking to the appropriate engager representative.

The RWA is available to assist and provide support in preparing and making the initial contact with the engager. The appropriate management representative(s) will be identified during First Day Talks where those are required. In some cases, individuals may be identified in the artists' contracts or engagement policies.

The RWA is also available for ongoing support and information. Finally, the RWA will request a report from the engager once the incident has been resolved.

The complainant will most likely be asked to give written details of their concern(s) – the notes taken earlier will be critically important here. The more detailed the information available to the engager, the more they have to work with in changing the situation.

Depending on the structure of their policy, the engager may suggest, as a first step, acting as a go-between in addressing the issue with the respondent. As well, some form of alternative dispute resolution, such as mediation may be suggested.

An investigation into the allegations may take place and management should provide an estimate of how long the process will be. Ask for a timeline estimate if none is provided. The investigation will involve the complainant, the person against whom the alleged complaint was laid (the respondent), and any other individuals who can help the investigator understand what took place.

It is advisable for a complainant to keep Equity apprised of the engager's response and investigation, if any, to ensure that the appropriate course of action is being taken.

XIV FILING A DISCIPLINARY COMPLAINT WITH EQUITY COUNCIL

If the person causing the alleged problem is an Equity member, the complainant may be able to file a formal complaint with Equity Council against the offending member. However, Council's complaint protocol is a general disciplinary process for unprofessional member behaviour and is not intended for responding immediately to workspace issues.

Complaints shall be made in writing, signed by the complainant, and delivered to the Executive Director. During the preliminary review, and in submitting the complaint to Council, the Executive Director will take all reasonable steps to preserve the privacy of both the complainant and respondent.

Council's complaint process is spelled out in Equity's bylaws and may involve referring the case to a third-party human resources professional for mediation or investigation and resolution. The complainant should consult Equity's by-laws for more information. The RWA will explain the filing process and what to expect at various stages of review.

**Note: Where it is determined that the nature of the complaint is such that outside authorities, such as the police, must be notified, the Executive Director may take further action on the complaint in abeyance pending completion of any other process.*

POLICY ADMINISTRATION

Equity will administer this policy on an ongoing basis, with an emphasis on education and proactive monitoring, and updating as needed to keep the policy current and effective.

The following elements are key to the administration of this policy.

XV OBLIGATIONS & SIGNIFICANT RISK

When Equity determines that a workspace situation poses a significant risk to those exposed to it, it will act prudently and to the best of its ability to address this situation. This may mean that the procedures outlined in this policy, including those specifying confidentiality, will be set aside. Equity has an obligation to investigate potential workspace harassment, workspace violence or workspace sexual harassment even in the absence of a formal complaint. If an allegation is such that an outside agency, such as the police, would be a more appropriate avenue for response, Equity may refer or recommend referral of the matter and suspend any further internal response.

XVI TIMELINESS

The absolute best way to effectively address an alleged workspace problem is to respond quickly. Once a production has closed, it becomes increasingly difficult to respond in a meaningful and effective way. Equity encourages anyone wishing to act under this policy to take the earliest possible opportunity to contact an RWA.

XVII TRAINING

Equity will arrange for its RWAs to receive initial and periodic renewal training specifically geared toward response and support on the workspace issues addressed in this policy, as well as support and assistance for carrying out these responsibilities. Replacements, as needed, will be appointed and trained in a timely manner. Business Representatives and other relevant staff will also be trained in managing the initial contact with complainants.

XVIII CONFIDENTIALITY

Equity understands that it is difficult to come forward with a complaint of bullying, harassment, sexual harassment or discrimination. Equity staff, Hearing Committees and third-party professionals involved in a workplace complaint will maintain confidentiality except as necessary to protect Equity members, investigate complaints and take corrective action or as otherwise required by law. Those involved in the investigation, including witnesses, will be advised that all information discussed during the proceedings will, to the extent possible, be handled discreetly in order to ensure a fair process for all parties involved.

Records pertaining to any application of this policy will be held in strict confidence, separate from other member or engager information. Only records of formal reprimand or discipline will be placed in an individual's membership file. For matters addressed through a disciplinary complaint with Equity Council, a final report on any action taken may be prepared for Council and a summary report (edited to be consistent with privacy legislation) may also be published. Details on this reporting requirement may be found in Equity's bylaws.

XIX ANONYMITY

Confidentiality does not mean anonymity. It may be possible, in some circumstances, to maintain the anonymity of a party to a complaint. However, a fundamental principle of fairness in complaint proceedings is that the respondent must be able to knowledgeably address the details of a complaint, and that will likely involve informing them of the identity of the complainant. Equity will work with the Engager to ensure mechanisms and strategies to address and respond to concerns and fears of reprisal as per provisions under Obligations & Significant Risk above.

XX CONFLICT OF INTEREST

An RWA may not work with both the respondent and complainant on an issue; two RWAs must be assigned. Similarly, RWAs may not serve on a matter, in which they have a personal relationship with one of the parties or where involvement might place them in any other conflict of interest.

XXI IMPACT vs. INTENT

In all matters of gauging alleged negative workspace behaviours, the impact of the behaviour or condition will be considered to be of primary importance, rather than the intent behind the behaviour or condition.

XXII WITHDRAWING A COMPLAINT

A complainant may withdraw a complaint at any stage in the response process. However, Equity may continue to act on the issue identified in the complaint in order to comply with its obligations under law, negotiated agreement or Council policy.

XXIII COMPLAINTS MADE IN BAD FAITH

Complaints which are trivial, frivolous, vexatious or made in bad faith will result in prompt termination of the response process. In the case where such a complaint has been made by an Equity member, disciplinary proceedings under the bylaws may also be considered.

XXIV POLICY REVIEW

Council and the Executive Director will review this policy at least every three years. The policy may also be reviewed and revised as appropriate (e.g., in the case of a significant revision of an agreement or applicable legislation, or as a result of finding that a procedure contained in the policy is either contrary to legal practises or inoperable).

XXV COLLECTION OF DATA/ANNUAL REPORT

The RWAs will gather information, including information from mediation and arbitration procedures, and prepare an annual report of aggregate data, types of claims, etc. (without identifying details) for the Executive Director to include and review as part of Council's monitoring cycle. The membership will also receive yearly reports.

XXVI COSTS

Equity shall be responsible for the costs of the administration of this policy including the costs of any mediation or investigation services, incurred by Equity on behalf of those protected by the policy. All parties retaining independent legal counsel or assistance shall do so at their own expense.

XXVII ACCOMMODATIONS FOR FORMAL AND INFORMAL COMPLAINTS PROCESSES

In order to ensure procedural equity and so that parties can fully access and participate in the complaints and resolution procedures outlined above, Equity will by itself or in partnership with the Engager ensure accommodation of the special needs of all persons involved (e.g., documents in alterative formats, off-site and after-hour meetings, interpretation and translation).

Appendix A

DEFINITIONS AND CONCEPTS

The following definitions and concepts are those most commonly used in creating workspace standards and in identifying workspace issues. They may, however, be added to or altered by legislated or negotiated standards in a given workspace. Please understand these definitions to be a guideline, and that they may not be comprehensive.

PERSONAL HARASSMENT

Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. For the purpose of this policy, harassment includes comment or conduct initiated by one person towards another, which causes humiliation, offence or embarrassment, or which has the purpose or effect of unreasonably interfering with the person's work and/or creating an intimidating, humiliating, hostile or offensive environment. Ordinarily, repeated comment or conduct is required to demonstrate harassment, however single acts of sufficient severity may also constitute harassment.

Harassment may include, but is not limited to:

- physically intimidating behaviour and/or threats;
- use of profanity (swearing), vulgarity;
- ridiculing, taunting, belittling or humiliating another person;
- derogatory name-calling;
- inappropriate or insulting remarks, gestures, jokes, innuendo or taunting;
- unwanted questions or comments about a person's private life;
- posting or display of materials, articles or graffiti etc. (including social media/online), which may cause humiliation, offence or embarrassment.

Bullying is a distinct form of personal harassment and may include some of the following:

- loud, abusive behaviour;
- unjustified criticism;
- shunning behaviours (including withholding information, ganging up, deliberate isolation from colleagues or exclusion from joint activities);
- repeated delegation of demeaning tasks.

SEXUAL HARASSMENT

1. Engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
2. Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and that person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual harassment may include, but is not limited to:

- reprisal or threat of reprisal for the rejection of a sexual solicitation or advance, where the reprisal is made by a person in a position to grant, confer, or deny a benefit or advancement;
- unwelcome remarks, jokes, innuendo or taunting about a person's body, attire, gender or sexual orientation;
- unwanted touching or any unwanted or inappropriate physical contact; such as touching, kissing, patting, hugging or pinching;
- unwelcome enquiries or comments about a person's sex life or sexual preference;
- leering, whistling or other suggestive or insulting sounds;
- making sexual or romantic solicitations or advances to a co-worker after it has been made clear by the co-worker that such solicitations and advances are unwelcome;
- inappropriate comments about clothing, physical characteristics or activities;
- posting or display of materials, articles or graffiti etc.(including social media/online) that is sexually oriented;
- requests or demands for sexual favours, which include or strongly imply promises of rewards for complying and/or threats of punishment for refusal.

DISCRIMINATION

Harassment may also relate to a form of discrimination as set out in federal or provincial human rights legislation, which prohibits discrimination and harassment on the basis of certain protected grounds. Consult the applicable federal and provincial legislation for the specific list of protected grounds.

SYSTEMIC HARASSMENT/DISCRIMINATION

Systemic harassment or discrimination includes policies, practices, procedures, actions or inactions that may appear neutral, but which effectively create conditions of discrimination or harassment. These practices are often embedded in an institution or sector, and may be invisible to the people who do not experience it, and even to the people who may be affected by it.

To combat systemic harassment/discrimination, it is essential for an organization or sector to create a climate in which the diverse needs of people are considered in all aspects of operations, and negative practices and attitudes can be challenged and discouraged.

NEGATIVE/POISONOUS/TOXIC WORK ENVIRONMENT

Any or all of the above conditions can have the effect of poisoning the work environment for everyone. A person does not have to be a direct target of harassing or discriminatory behaviour to be adversely affected by a negative environment.

REPRISAL

Reprisal involves any adverse action taken against an individual because he or she reported unwelcome behaviour, complained to an engager about unwelcome behaviour in the workspace, or participated in an investigation or legal proceeding relating to a complaint, including as a witness. Reprisal also includes adverse action taken against someone who is associated with the individual opposing the unwelcome behaviour, such as a family member.

Examples of reprisal include:

- termination from the production
- denial of future work opportunities
- any other adverse action that would discourage a reasonable person from opposing the unwelcome behaviour

PROTECTED GROUNDS

The Canadian Human Rights Act of 1977 protects people in Canada from discrimination. Provincial and territorial human rights laws share many similarities with the Canadian Human Rights Act and apply many of the same principles. However, it is important to be aware of the specific grounds within your province's legislation. They protect people from discrimination in areas of provincial and territorial jurisdiction, such as restaurants, stores, schools, housing and most workplaces.

The 11 grounds of discrimination protected under the Act are:

- race
- national or ethnic origin
- colour
- religion
- age
- sex
- sexual orientation
- marital status
- family status
- disability
- a conviction for which a pardon has been granted or a record suspension has been ordered

Appendix B

GUIDELINES FOR WORKSPACE NOTES

The following are guidelines for complainant notes and forms. The notes taken are intended to provide a clear and durable record of workspace occurrences that contravene workspace policies. Since any response process will necessarily involve people who were not present “in the room” when the situation occurred, being able to bring those people up to speed is important.

The RWA can provide guidance during the documentation process, as some people may find it difficult to create a detailed account of their experience. The more that is known, the better positioned Equity or the engager will be.

Notes should include:

- name of the respondent (person about whom the complaint is being made)
- details on the occurrence(s) in narrative or point form format explaining the incident and impact it had
- location, time and date of the occurrence(s)
- names of any witnesses to the occurrence(s)
- section of policy that the complainant feels has been contravened by the respondent
- form of harassment that has taken place
- preferred (if any) solution to resolving the issue
- any relevant documentation (either that the complainant has or believes to exist)

Appendix C

COMPLAINT AND DISCIPLINARY PROCESS

An online fillable form to report an incident of alleged workspace harassment to Equity or an engager must include the following information. Visit www.caea.com/EquityWeb/MemberServices/not-in-our-space.

1. Personal Contact Information – Complainant
2. Personal Contact Information – Respondent
3. General Grounds for Complaint
 - an act of harassment on a prohibited ground
 - an act of personal harassment
 - an act of sexual harassment
 - an act of violence
4. Specifics of the Complaint
 - What happened
 - Who was involved
 - When it happened (day, month, year)
 - Where it happened
5. Documents Supporting the Complaint
6. Confidential List of Witnesses
7. Steps Already Taken to Resolve the Complaint
8. Declaration of Complaint



RESPECTFUL WORKSPACE POLICY

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