

## **THE MUSICAL STAGE COMPANY**

### **POLICIES AND PROCEDURES**

**SUBJECT:** Respect in the Workplace Policy

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#### **1. Policy Statement:**

1.1 The Musical Stage Company is committed to a harassment-free environment for its employees, contract workers, volunteers, participants and board members (“Representatives”). Mutual respect, along with cooperation and understanding, must be the basis of interaction among Representatives. The Musical Stage Company will neither tolerate nor condone behaviour that is likely to undermine the dignity or self-esteem of an individual, or create an intimidating, hostile or offensive environment.

1.2 This Policy describes The Musical Stage Company’s responsibility, in co-operation with its Representatives to:

- (a) Take every reasonable precaution to protect the health and safety of its Representatives.
- (b) Establish and maintain a respectful work environment, free from violence and the threat of violence, harassment (including sexual harassment), and discrimination.
- (c) Comply with all applicable legislative obligations including, but not limited to changes to the *Occupational Health and Safety Act* introduced by Ontario Bills 168 and 132 addressing violence, harassment and sexual violence in the workplace.

1.3 Our Respect in the Workplace Policy is not meant to stop free speech or to interfere with everyday interactions. Usually, harassment can be easily distinguished from normal, mutually acceptable socializing. It is important to remember that it is the perception of the receiver that determines whether the potentially offensive message is acceptable or not, be it spoken, gestural, pictorial, or some other form of communication which may be deemed objectionable or unwelcome.

## 2. Definitions:

2.1 There are several forms of harassment but all can be defined as any unwelcome action by any person, whether verbal or physical, on a single or repeated basis, which humiliates insults or degrades. “Unwelcome”, for the purposes of this policy, refers to any action which the harasser knows or ought to reasonably know is not desired by the victim of the harassment.

2.2 **“Workplace”** includes, but is not limited to, The Musical Stage Company office, rehearsal rooms, and theatre spaces being used by The Musical Stage Company. It may also include work-related social functions, work-related assignments outside the workplace, conferences, training sessions, fundraisers, work-related travel and other work-related events.

2.3 **“Workplace Racial Harassment”** is defined as any unwelcome comments, racist statements, slurs, jokes, graffiti or literature, videos, or pictures and posters which may intentionally or unintentionally offend another person. Furthermore, unfairly singling out or humiliating an individual or a collective based on race, colour, citizenship, place of origin, ancestry, ethnic background, or creed shall also constitute racial harassment.

2.4 **“Workplace Harassment”** means either of the following: (a) Engaging in a course of vexatious comment or conduct against a Representative in a Workplace that is known, or ought reasonably to be known, to be unwelcome; or (b) Workplace Sexual Harassment.

Workplace Harassment includes unwelcome verbal, electronic, visual, or physical contact that denigrates or shows hostility towards an individual because of any characteristic prohibited by law, and which has the purpose or effect of violating the recipient’s dignity, or creating an intimidating, hostile, or humiliating work environment for the recipient. Workplace Harassment also includes conduct which is known, or ought to reasonably be known, to be unwelcome.

Behaviour that is inappropriate includes, but is not limited to:

- Displaying or disseminating images, cartoons, or jokes that include derogatory content about religion, national origin, or other protected grounds
- Bullying
- Singling out a person or making comments that are insulting based on age, sexual orientation, or other protected characteristic
- Unwelcome remarks, jokes, or innuendos about a person’s racial or ethnic origin, colour, place of birth, citizenship, or ancestry
- Insulting gestures or practical jokes based on racial or ethnic grounds which create awkwardness or embarrassment
- Refusing to speak to or work with someone or treating someone differently because of his/her ethnic or racial background.

Workplace Harassment does not, however, include properly discharged managerial responsibilities, including disciplinary action, management of performance, counseling and other conduct that does not interfere with a climate of understanding and respect for dignity and worth.

2.5 **“Workplace Sexual Harassment”** means engaging in a course of vexatious comment or conduct against a Representative in a workplace relating to 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 and includes the following:

- (a) any unwanted attention of a sexual nature such as unwelcome sexual advances, sexual favours, persistent propositions, remarks about appearance or personal life, offensive written or visual actions like graffiti or degrading pictures, physical contact of any kind,

sexual demands, gender-based insults and taunting, conduct that denigrates male or female sexuality or vexatious conduct that is directed at someone because of their sex. Hostility, rejection, and/or bullying of a sexual nature shall also constitute sexual harassment; or

- (b) 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 to the worker and the person knows, or ought reasonably to know, that the solicitation or advance is unwelcome.

Examples of Workplace Sexual Harassment include, but are not limited to:

- Unwelcome remarks, jokes, innuendos, propositions, or taunting about a person's body, attire, sex or sexual orientation
- Suggestive or offensive remarks
- Bragging about sexual prowess
- Offensive jokes or comments of a sexual nature about an employee
- Unwelcome language related to gender
- Displaying of pornographic or sexist pictures or materials
- Leering (suggestive persistent staring)
- Physical contact such as touching, patting, or pinching, with an underlying sexual connotation
- Sexual assault

2.6 **“Workplace Violence”** any act in which a person is abused, threatened, intimidated, or assaulted in his or her employment including but not limited to a threat or an act of aggression resulting in physical or psychological damage, pain or injury to a Representative. Further to the definition of violence, is the definition of abuse. Abuse can be verbal, psychological or sexual in nature. Verbal abuse is the use of unwelcome, embarrassing, offensive, threatening or degrading comments. Psychological abuse is an act which provokes fear or diminishes a person's dignity or self-esteem. Finally, sexual abuse is any unwelcome verbal or physical advance or sexually explicit statement.

Workplace Violence includes:

- a. The exercise of physical force by a person against a worker in a workplace that causes, or could cause, physical injury to the worker
- b. An attempt to exercise physical force against a worker in a workplace that could cause physical injury to the worker
- c. A statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker in a workplace that could cause physical injury to the worker

Examples of workplace violence include, but are not limited to:

- Any assault or physical attack, which includes fighting, punching, slapping, hitting, pushing, shoving, kicking, or any threat or attempt at such acts
- The use of a weapon, or threatened use of any object as a weapon
- Any threatening behaviour, such as shaking fists, throwing objects, physical

confrontation, or intimidation (e.g. crowding or cornering an individual)

- Stalking
- Any threat, behaviour, or action which is interpreted to carry the potential to harm or endanger the safety of others, result in an act of aggression, or destroy or damage property
- Disruptive behaviour that is not appropriate to the work environment (e.g. yelling or swearing)

2.7 “**Domestic Violence**” is considered workplace violence in circumstances where a person who has a personal relationship with a worker (e.g. spouse or former spouse, current or former intimate partner or a family member) may physically harm, or attempt or threaten to physically harm, that worker at the workplace.

### **3. Policy Application:**

3.1 This policy applies to all Representatives.

3.2 The Musical Stage Company will ensure that all Representatives are trained and educated on violence and harassment and that they understand their roles and responsibilities, as well as this policy, and all workplace procedures. In addition, a copy of this policy will be made available to all Representatives.

3.3 The Musical Stage Company will, in consultation with the Joint Health & Safety Committee develop a written program to supplement this policy.

3.4 All Representatives are personally accountable and responsible for enforcing this policy and must make every effort to prevent discrimination or harassing behaviour and to intervene immediately if they observe a problem or if a problem is reported to them.

#### **4. Discrimination, Harassment, and Violence in the Workplace:**

4.1 The Musical Stage Company is committed to providing a respectful work environment that is free from discrimination, harassment, violence, or threat of violence in the workplace.

4.2 The Musical Stage Company prohibits discrimination on the basis of race, ancestry, place of origin, colour, ethnic or national origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences (for which an unrevoked pardon or a record suspension has been granted under the Canada Criminal Records Act, or an offence in respect of any provincial enactment), disability, marital or family status, or any other characteristic protected by law.

4.3 The Musical Stage Company prohibits all forms of Workplace Harassment, including, but not limited to, Workplace Sexual Harassment and Workplace Racial Harassment. The law does not permit, nor will The Musical Stage Company tolerate, harassing or violent behaviour against any Representative of The Musical Stage Company by other Representatives, patrons, audience members, contractors, or visitors to the Workplace. Likewise, The Musical Stage Company will not tolerate harassing or violent behaviour against patrons, audience members, contractors, or visitors and members of the public who may access the Workplace by any Representative of The Musical Stage Company.

4.4 The Musical Stage Company shall take all reasonable steps to identify risks and prevent harassment and/or violent acts and threats of violence in the Workplace that affect the personal safety and well-being of Representatives, visitors, clients, contractors, and members of the public who may access the Workplace. The Musical Stage Company will take appropriate action to protect all persons from the effects of violent behaviour and threats of violence in the Workplace.

#### **5. Threats of Domestic Violence:**

5.1 The Musical Stage Company will take every precaution reasonable in the circumstances, where required by law, for all Representatives' protection if a Representative is likely to be exposed to physical injury when The Musical Stage Company is, or becomes aware of, a domestic abuse concern that would likely expose a Representative to physical injury in the Workplace.

5.2 Representatives should advise The Musical Stage Company of knowledge of a domestic abuse concern regarding a Representative. While some disclosure of personal information may be necessary in such a situation, disclosure will be limited to what is reasonably necessary to protect the Representative from physical injury.

5.3 Representatives should also immediately inform The Musical Stage Company of any restraining order, its contents and terms, and the identity of the individual being restrained if they have received a protection order preventing contact from, or restraining access by, another individual.

5.4 Circumstances may require The Musical Stage Company to disclose personal information about a person (including a current Representative) who has committed, or may commit, an act of workplace violence where another Representative is at risk of workplace violence. The disclosure of personal information will be limited to that which is necessary to protect a Representative from personal injury.

## **6. Expectations:**

6.1 Where The Musical Stage Company becomes aware that harassment and/or violence may occur in the workplace, every reasonable precaution will be taken to protect a Representative. The Musical Stage Company has a zero tolerance limit with regards to Workplace Harassment, Sexual Harassment and Racial Harassment and violence. Representatives engaging in either harassing or violent activities will be subject to discipline, which may include termination of employment, removal from Boards or committees and possibly criminal charges.

6.2 Everyone is expected to uphold this policy and any supporting programs and to work together to prevent workplace violence and harassment. We are all required to raise any concerns about workplace violence and harassment and to report any violent and/or harassing incidents or threats immediately to a supervisor or the Artistic & Managing Director, General Manager/Human Resources, Board Chair, or other member of the Board.

6.3 No one will be penalized, reprimanded or in any way criticized when acting in good faith to bring forward a complaint or providing information regarding a complaint or incident.

6.4 The Musical Stage Company pledges to investigate and deal with all incidents and complaints of workplace violence and harassment in a safe, thorough, unbiased, confidential, timely and fair manner, respecting the privacy of all concerned as much as possible. If support is not adequate or provided in a timely manner by the Artistic & Managing Director, a Representative may choose to direct their report or complaint to the General Manager/Human Resources, the Board Chair, or other member of the Board.

## **7. Prevention:**

7.1 Prevention is always the first line of defence against occurrences of harassment. All Representatives are reminded of their obligation to follow the Code of Conduct and to adhere to policies and procedures aimed at ensuring a positive work environment. Beyond this, there is a duty upon all to prevent harassment by discouraging inappropriate activities and by reporting incidents, as per this policy.

## **8. Rights:**

8.1 Every Representative has the right to:

- An environment that is free from harassment
- File a complaint when the environment is not free from harassment
- Be informed of complaints made against them
- Obtain an investigation of the complaint without fear of embarrassment or reprisal
- Have a fair hearing
- Be kept informed throughout the process and of remedial action taken
- A fair appeal process for both the respondent and complainant
- Confidentiality to the degree possible under the circumstances
- Representation by a third party

## **9. Obligations:**

9.1 Representatives have the responsibility to ensure the safety and health of all those who come in contact with The Musical Stage Company, whether those contacts are clients, volunteers, employees or suppliers.

9.2 The Artistic & Managing Director, General Manager/Human Resources, the Board Chair, or other member of the Board (pending whom the complaint was reported to) have the responsibility to:

- Review this policy annually as required by the Occupational Health and Safety Act
- Post this policy in a conspicuous place in the workplace
- Ensure that all employees are made aware of the importance of preventing and reporting discrimination, harassment, or violence, and of the procedures for managing complaints made pursuant to this policy
- Take every precaution reasonable in the circumstances for the protection of the employee where they are aware, or ought reasonably to be aware, of a domestic violence situation that would likely expose an employee to physical injury
- Appoint investigators when appropriate to do so
- Take corrective action when a complaint of discrimination, workplace harassment, or violence is found to have been substantiated
- Take disciplinary action as a result of inaction on the part of any individual to whom a complaint has been made
- Take disciplinary action, up to and including termination of employment for just cause, for any violation of this policy
- Provide advice and support to persons who are subjected to discrimination, harassment, reprisals, or violence
- Ensure that a minimum of two Board member are aware of a complaint without disclosing the identity of the complainant without their permission.

9.3 Representatives are responsible for the following:

- Behave in a professional, respectful manner and avoid any behaviour that could constitute discrimination, harassment, reprisals, or violence
- Report to your manager, the Artistic & Managing Director, the General Manager/Human Resources or the Board Chair or other Board member any discrimination, harassment, reprisals, or violence (including domestic violence) of which you are aware
- Bring to the attention of your manager, the Artistic & Managing Director, the General Manager/Human Resources or the Board Chair or other Board member any individual at The Musical Stage Company who presents any form of elevated risk
- Co-operate with the process for handling complaints when required
- Be forthright and honest in the course of any Workplace investigation.

## **10. Process:**

10.1 The Musical Stage Company encourages prompt reporting of complaints or concerns so that it can proceed proactively before work situations become irreparably damaged. The Artistic & Managing Director is responsible, upon becoming aware that discrimination or harassment may be occurring, for taking appropriate corrective action in consultation with The General Manager/Human Resources, Board Chair, or other member of the Board even if no formal complaint is made.

10.2 Any Representative who feels discriminated against or harassed can and should, in all confidence and without fear of reprisal, personally report the facts directly to the Artistic & Managing Director, General Manager, Board Chair or other board member – whomever the complainant is most comfortable reporting to.

### 10.3 Reporting Discrimination or Harassment

#### Informal Procedure:

If you believe you have been harassed or discriminated against you may:

- Confront the harasser personally or in writing pointing out the unwelcome behaviour and requesting that it stop, only if you are comfortable doing so.
- Discuss the situation with your supervisor/manager, the Artistic & Managing Director, General Manager, Board Chair or other board member – whomever the complainant is most comfortable reporting to.

#### Formal Procedure:

If you believe you have been harassed or discriminated against, you may make a written complaint. The written complaint must be delivered to the Artistic & Managing Director, General Manager, Board Chair, or other Board member – whomever the complainant is most comfortable reporting to and should include:

- The approximate date and time of each incident you wish to report
- The name of the person or persons involved in each incident
- The name of any person or persons who witnessed each incident
- A full description of what occurred in each incident

### 10.4 Investigation of Reports of Discrimination or Workplace Harassment

- (i) The receiver will share the complaint with a minimum of two board members, one of whom shall be the board chair (unless they are the subject of the complaint).
- (ii) Upon receiving a written complaint, The Musical Stage Company will complete a thorough investigation that is appropriate in the circumstances. No Respondent (defined below) shall, in any way, be involved in conducting any part of the investigation.

- (iii) Representatives will not be demoted, dismissed, disciplined, or denied a promotion, advancement, or employment opportunities because they rejected sexual advances or because they lodged a complaint when they honestly believed they were being harassed or discriminated against.
- (iv) The Musical Stage Company will ensure that all information obtained during the course of an investigation will not be disclosed, unless the disclosure is necessary for the purposes of investigating or taking corrective action, or is otherwise required by law.
- (v) For the purposes of this section the following definitions apply:
- Complainant – The person who has made a complaint about another individual whom they believe committed an act of violence, discrimination, or harassment against them.
- Respondent – The person whom another individual has accused of committing an act of violence, discrimination, or harassment.
- (vi) The investigation will include:
- Informing the Respondent of the complaint
  - Interviewing the Complainant, any person involved in the incident, and any identified witnesses
  - Interviewing any other person who may have knowledge of the incidents related to the complaint or any other similar incidents.
  - Providing a copy of the complaint, detailing the Complainant's allegations, to the Respondent
  - Inviting the Respondent to reply in writing to the Complainant's allegations. The reply will be made known to the Complainant before the investigation proceeds further
  - Preventing unnecessary disclosure of the details of the incident being investigated and protecting the identities of the Complainant and the Respondent
  - Interviewing the Complainant and the Respondent, as well as any possible witnesses
  - Taking and documenting statements from all parties involved
  - Making a determination of whether the offending conduct occurred
  - Communicating this finding in writing to the Complainant and the Respondent
  - Employing, if necessary, outside assistance, investigators or legal counsel at any point during the investigation
- (vii) Upon completion of the investigation, The Musical Stage Company will inform both the Complainant and Respondent in writing of the findings of the investigation and any corrective action that has, or will be taken, as a result of the investigation.
- (viii) If The Musical Stage Company determines that disciplinary measures are required, it shall consider the factors set out in Section 11 herein in determining the appropriate course of action.

- (ix) If a Complainant decides not to make a formal complaint, the leadership team may decide that a formal complaint is nonetheless required (based on the investigation of the incident) and will file such documents with the person against whom the complaint is laid (the Respondent).
- (x) If it is determined that harassment in any form has occurred, appropriate disciplinary measures will be taken as soon as possible.
- (xi) Situations where there has been an accusation of harassment are extremely sensitive and often complex. At all times, the emotional and physical safety of the Complainant is paramount, and this may involve taking steps that are not outlined herein.

## **11. Disciplinary action:**

11.1 If, after an investigation, it is determined by The Musical Stage Company that any Representative has been involved in a violent behaviour, unacceptable conduct, or harassment of another Representative, disciplinary action will be taken. Any disciplinary action will be determined by the organization and will be proportional to the seriousness of the behaviour concerned. Such disciplinary action may involve counselling, a formal warning, or termination of employment.

11.2 Criteria in determining level of disciplinary action shall be based on fact scenario and will take into account harm to the individual, harm to the company and its reputation, and whether or not there was an unequal power relationship.

11.3 Where the conduct involves, or may involve, criminal activity, The Musical Stage Company reserves the right to invoke criminal charges.

11.4 Representatives have a duty to disclose criminal activity.

11.5 Any interference with the conduct of an investigation, or retaliation against a Complainant, Respondent or witness, may itself result in disciplinary action.

## **12. Confidentiality:**

12.1 Complaints of harassment will be received and investigated in a confidential manner in accordance with the procedures, including prescribing corrective action. Information that must be shared will be disclosed on a need-to-know basis.

12.2 Any allegation or complaint of discrimination, harassment or sexual harassment will be considered personal information 'supplied in confidence'. The name of the Complainant or the circumstances of the complaint will not be disclosed to any person except where disclosure is necessary for the purpose of investigating the complaint. The substance of investigative reports and the substance of meetings held by those in authority regardless of whether it is substantiated, will be protected from disclosure to third parties, except where required for legal reasons.

12.3 Strict confidentiality cannot be guaranteed to anyone who wants to make a complaint of harassment. If a complaint goes through an investigation, the Respondent and other people involved will have to learn about the complaint. The Complainant can be assured that only people who 'need-to-know' will be told of the complaint.

12.4 No investigation information is to be kept on the employee/volunteer's personnel file with the exception of official disciplinary/termination papers. Similar to problem resolution cases, harassment investigation information should be kept indefinitely in a separate file. Proven allegations of harassment or sexual harassment, including disciplinary action taken shall be documented and form part of the Representative's permanent record.

## **13. Fraudulent or Malicious Complaints:**

13.1 This Respect in the Workplace policy must never be used to bring fraudulent or malicious complaints against Representatives. Unfounded or frivolous allegations of harassment and/or violence have the potential to cause both the accused person and The Musical Stage Company significant damage. If it is determined by The Musical Stage Company that any Representative has knowingly made false statements regarding an allegation of harassment or violence, immediate disciplinary action will be taken.

## **14. Reprisal:**

14.1 The Musical Stage Company strictly prohibits and will not tolerate reprisals against any Representative who reports an act of Workplace discrimination, harassment, or violence. Similarly, there will be no reprisal against any Representative who participates in a workplace investigation of discrimination, harassment, threats, or acts of violence. Reprisal is defined as any act of retaliation, either direct or indirect.

## **15. Human Rights Commission:**

15.1 Nothing in this policy shall be deemed to limit the right of an employee or volunteer to seek assistance from the provincial/territorial Human Rights Commission.

### **For further inquiries:**

Contact the General Manager & Producer.