

# Pleiades Theatre – Respectful Workplace Policy and Program

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## 1. Policy Statement

Under the Ontario *Human Rights Code* (“the *Code*”), every person has a right to equal treatment in the provision of services and facilities, occupation or accommodation, contracts and in employment. Under the *Occupational Health and Safety Act* (“the *OHSA*”), all employers are required to have a workplace harassment policy, program, information, instruction and to protect workers from workplace harassment.

Pleiades Theatre (“the Theatre”) is committed to promoting respectful conduct, tolerance and inclusion and to providing a work and artistic environment for its workers, directors, producers, the Artistic Director, and members of the Board of Directors, that is free from harassment, discrimination and bullying. All such individuals are responsible for respecting the dignity and rights of each other.

The Theatre will not tolerate, ignore, or condone discrimination, harassment, or bullying from any person in the workplace including other workers, directors, producers, the Artistic Director, members of the Board of Directors, or patrons. Discriminatory, harassing, and bullying behaviours in the workplace are unacceptable and will be dealt with as set out in this Policy and Program.

## 2. Scope

This Policy and Program apply to all workers and volunteers of the Theatre, including the Artistic Director, directors, producers, and subcontractors. It also applies to members of the Board of Directors.

### 3. Definitions

*Bullying* is aggressive and typically repeated behaviour (physical, social, verbal, electronic, written or other means) intended to isolate or cause harm (physical, psychological, or social), fear or distress to another person or to the person's reputation or property.

*Complainant* is anyone who makes a complaint under this policy, alleging that workplace harassment has occurred.

*Complaint or Incident:* A verbal or written allegation of an incident of discrimination, harassment or bullying.

*Discrimination* means any form of unequal treatment, whether intentional or not, based on a protected ground under the Ontario *Human Rights Code* ("the *Code*"). It can involve direct actions that are discriminatory, or it can involve rules, practices or procedures that appear neutral, but have the effect of imposing burdens, obligations, or disadvantages, on certain groups of people (i.e. where a protected ground is a factor), or which withholds or limits access to opportunities, benefits and advantages available to other individuals. A single act of sufficient severity may constitute discrimination.

*Harassment:* Provisions regarding harassment are included under both the *Code* and the *Occupational Health & Safety Act* ("OHSA"). Harassment is a form of discrimination if it is *Code*-based (i.e. based on a protected ground). Harassment may result from one serious incident, or a series of incidents, and it may be intentional or unintentional. It can occur between co-workers, between management and workers, between workers and the Board of Directors, between workers and patrons, etc., and vice versa.

*Code-based Harassment* means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome, where a factor in the harassment is a protected ground under the *Code*.

Conduct that may constitute *Code*-based harassment includes but is not limited to patterns of the following behaviours:

- slurs, jokes, or derogatory remarks that are related to any of the Protected Grounds
- ridicule, insults, insulting gestures, name-calling or differential treatment because of any of the Protected Grounds
- posting, displaying, or e-mailing cartoons or pictures that are degrading, such as pin-ups, pornography, or racist, homophobic, or other offensive materials
- use of electronic communications such as e-mail or social media to harass
- spreading rumours that damage one's reputation
- refusing to work with another person
- condescending or patronizing behaviour
- abuse of authority which undermines performance or threatens another person's career
- unwelcome touching, physical assault or sexual assault
- a single, serious incident that has a lasting, harmful impact

*Workplace Harassment (Non-Code)* means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or sexual workplace harassment.

Conduct that may constitute workplace harassment includes but is not limited to patterns of the following behaviours:

- intimidating behaviour such as angry shouting/yelling or blow-ups, slamming doors, throwing objects
- regular use of profanity and abusive language
- verbal or e-mail threats (not including threats to exercise physical force which would be covered by the workplace violence policy)
- public humiliation, embarrassment
- communication that is demeaning, insulting, humiliating, mocking
- intent to harm
- a single, serious incident that has a lasting, harmful impact

The *OHSA* states that workplace harassment is not a reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace. Properly discharged supervisory responsibilities do not constitute discrimination or harassment. This includes, but is not limited to, performance appraisals, performance management which includes coaching, counselling, discipline, organizational changes/restructuring, shift/vacation scheduling, work assignments/work location, etc.

*Protected Grounds* under the *Code* include race, colour, place of origin, ethnic origin, ancestry, citizenship, creed, sex (including pregnancy), sexual orientation, age, marital status, family status, same-sex partnership status, record of offenses, disability, gender identity and gender expression within the meaning of the *Code*, association or relationship with a person identified by one of the preceding grounds, or perception that one of the above grounds applies.

*Reprisal* is any harassment, intimidation, threat or discipline against a person (e.g. complainant, respondent, witness, investigator) for making a report to the Theatre regarding an incident/complaint of alleged harassment/discrimination or bullying. It can also include retaliation against someone who has participated in or is believed to have participated in a process to address a matter under this policy.

*Respondent* is the person who is alleged to be responsible for the discrimination or harassment. There can be more than one respondent to a complaint.

*Worker* (for the purpose of this policy) is any person who is included in the definition of “worker” under the *OHSA*, including but not limited to regular, temporary, probationary employees, volunteers, co-op students and contract employees.

*Workplace* under the *OHSA* is defined as any land, premises, location or thing at, upon, in or near which a worker works. For the purpose of this policy, it also includes any place where business or social activities of the Theatre are conducted. Workshops, training sessions and staff functions also fall within the scope of this policy, and this policy may apply to incidents that happen away from work (for example, inappropriate social media posts, phone calls, emails, or after-work socials.)

*Workplace Sexual Harassment* means:

- a) engaging in a course of vexatious comment or conduct against a worker in a workplace 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
- 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.

Conduct that may constitute workplace sexual harassment includes, but is not limited to patterns of the following behaviours:

- sexually suggestive or obscene remarks or gestures
- bragging about sexual prowess or discussing sexual activities
- displaying sexualized pin ups, screensavers, messages etc.
- circulating, telling or participating in sexual, homophobic or transphobic jokes, communications etc.
- insults, comments that ridicule, humiliate or demean a person because of their sex, sexual orientation, gender identity or gender expression;
- negative/stereotypical comments, insults, or jokes based on gender, sex, sexual orientation, gender identity, gender expression
- gender-related comments about a person's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms
- leering (inappropriate suggestive staring at a person's body)
- sexual advance or "solicitation" for a sexual relationship, especially if in a position of power over the person (eg. able to confer, grant or deny a benefit to them). This may include a supervisor making advances towards a worker or a worker/supervisor making advances towards a contractor.

#### **4. Roles and Responsibilities**

All persons covered by this policy, including workers, volunteers, producers, directors, the Artistic Director, and members of the Board of Directors:

- are expected to be familiar with, adhere to, and uphold the policy provisions;
- are responsible for creating, maintaining and contributing to a climate of understanding and mutual respect for the rights and dignity of each person;
- shall not engage in behavior contrary to this Policy and Program, including harassment or discrimination based on a protected ground, sexual harassment, or workplace harassment;
- shall report any incidents/complaints of discrimination, harassment, or bullying, either witnessed or experienced, based on procedures as outlined in this Policy and Program;
- shall co-operate in the investigation process.

The Theatre shall ensure that this Policy and Program are understood, implemented and maintained for the protection of those covered under it.

The Theatre shall investigate and deal with all alleged incidents/complaints of discrimination, harassment or bullying in a fair, respectful and timely manner. Information provided about an incident or complaint will not be disclosed except as necessary to protect the complainant, to investigate the incident/complaint, to take corrective action, or as otherwise required by law.

#### **5. No Reprisal or False Claims**

It is a violation of this Policy and Program for any person covered under the policy to take any reprisal against another covered person for the reason that the other person invoked this Policy and Program or participated in an investigation.

If it is determined that any person covered under this Policy and Program makes a false, frivolous, malicious and/or bad faith complaint, or abuses the process, they may be subject to discipline up to and including dismissal.

## **6. Reporting Workplace Harassment**

### ***a. How to Report Workplace Harassment***

When reporting an incident/complaint of discrimination, harassment, or bullying, complainants should use the Harassment/Discrimination complaint form (see attached). When a verbal report is received, the complainant shall be directed to fill out the complaint form.

The report of the incident/complaint should include the following information:

- a. Name(s) of the person who has allegedly experienced harassment and contact information;
- b. Name of the respondent(s), position and contact information (if known);
- c. Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known);
- d. Details of what happened including date(s), frequency and location(s) of the alleged incident(s), and:
  - a) Any supporting documents the complainant may have in their possession that are relevant to the complaint.
  - b) List any documents a witness, another person or the respondent may have in their possession that are relevant to the complaint.

### ***b. Who to Report Workplace Harassment To***

An incident/complaint (of discrimination, harassment, or bullying) should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident/complaint to be investigated in a timely manner.

Incidents/complaints should be reported initially to the Artistic Director, except where the Artistic Director is the respondent. The Artistic Director (where they are not the respondent) shall report the matter to the Chair of the Board of Directors (“the Board Chair”), except where the Board Chair is a respondent. Where the Artistic Director is a respondent, the incident/complaint should be reported initially to the Board Chair. In either case, the Board Chair (where they are not the respondent) shall ensure an investigation is conducted that is appropriate in the circumstances.

Incidents/complaints naming the Board Chair as a respondent should be reported to a Board member who is not involved in the incident/complaint, and that Board member will immediately inform the rest of the Board of Directors at or before the next regularly scheduled Board meeting. The Board of Directors (excluding the Board Chair) will then designate a Board member who is not involved in the incident/complaint to ensure an investigation is conducted that is appropriate in the circumstances.

If the incident/complaint involves the Artistic Director or a member of the Board of Directors (including the Chair), an external person qualified to conduct a workplace investigation who has knowledge of the relevant discrimination and harassment laws may be retained to conduct the investigation.

All incidents/complaints shall be kept confidential except to the extent necessary to protect the parties, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

## 7. Investigation

### ***a. Commitment to Investigate***

The Theatre will ensure that an investigation appropriate in the circumstances is conducted when the Artistic Director, the Board Chair or a member of the Board of Directors (see section 6 above) becomes aware of an incident/complaint of discrimination, harassment or bullying, or receives a complaint of discrimination, harassment or bullying.

### ***b. Who Will Investigate***

The Board Chair (where they are not a respondent) will determine who will conduct the investigation into the incident/complaint of discrimination, harassment or bullying. If the allegations involve the Board Chair, the designated Board member will refer the investigation to an external investigator to conduct an impartial investigation.

### ***c. Timing of the Investigation***

The Investigator will conduct the investigation fairly, objectively, and in a timely manner. The Investigator will make, maintain, and preserve, interview notes and preserve all information received in an investigation file and forward to the Board Chair, or designated Board member where applicable.

### ***d. Investigation Process***

The person conducting the investigation, whether internal or external to the workplace, will at minimum complete the following:

- i. The investigator must ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The investigator should remind the parties of this confidentiality obligation at the beginning of the investigation.
- ii. The investigator must thoroughly interview the complainant, and the respondent, if the respondent is a worker of the Theatre. If the respondent is not a worker, the investigator should make reasonable efforts to interview the respondent.
- iii. The respondent(s) must be given the opportunity to respond to the specific allegations raised by the complainant. In some circumstances, the complainant should be given a reasonable opportunity to reply.
- iv. The investigator must interview any relevant witnesses employed by the Theatre who may be identified by either the complainant, the respondent(s), or as necessary to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses who are not employed by the Theatre if there are any identified.
- v. The investigator must collect and review any relevant documents.
- vi. The investigator must take appropriate notes and statements during interviews with the complainant, the respondent, and any witnesses.
- vii. The investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the complainant, the response from the respondent, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether discrimination, harassment or bullying was found or not.
- viii. A copy of the investigation report will be provided to the Board Chair. Where the Board Chair is the respondent or otherwise involved in the investigation, the Investigation Report shall be sent to the

designated Board member who shall report the findings of the investigation to the rest of the Board.

#### ***e. Results of the Investigation***

Within a reasonable time of the investigation being completed, the complainant(s) and the respondent(s) will be informed in writing of the results of the investigation and any corrective action taken or that will be taken by the Theatre to address workplace harassment.

#### ***f. Confidentiality***

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident/complaint of discrimination, harassment, or bullying, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect workers, to investigate the incident/complaint, to take corrective action, or as required by law.

While the investigation is ongoing, the complainant, the respondent(s), and any witnesses should not discuss the incident/complaint or the investigation with each other or witnesses or anyone else at or related to the Theatre unless necessary to obtain legal advice about their rights or as required by law. The investigator may discuss the investigation and disclose the incident/complaint-related information as necessary to conduct the investigation.

#### ***g. Handling Complaints***

In certain circumstances, it may be necessary to place the respondent on a non-disciplinary paid leave pending the outcome of the investigation. The terms of the leave will be determined by the Board Chair or designated Board member, as applicable.

Anyone who is found to have discriminated against, harassed, or bullied an individual contrary to this policy, may be subject to discipline up to and including dismissal.

### **8. Recourse to Human Rights Tribunal and/or Ministry of Labour**

Nothing in this Policy and Program prevents an individual from exercising their rights under the Ontario *Human Rights Code* and/or the *Occupational Health and Safety Act*.

### **9. Record Keeping**

The Theatre (Artistic Director, Board Chair, or designated Board member, as applicable) will keep records of the investigation including:

- a. a copy of the complaint or details about the incident;
- b. a record of the investigation including notes;
- c. a copy of the investigation report (if any);
- d. a summary of the results of the investigation that was provided to the complainant and the respondent, if a worker of the Theatre;
- e. a copy of any corrective action taken to address the complaint or incident of discrimination, harassment or bullying.

All records of the investigation will be kept confidential. The investigation documents, including this report, should not be disclosed unless necessary to investigate an incident/complaint of discrimination, harassment

or bullying, take corrective action, or as required by law.

Records will be kept for one year.

**10.Further Assistance**

If a worker needs further assistance, they are encouraged to contact the relevant organization or government agency, such as the Human Rights Legal Support Centre, the Human Rights Tribunal, the Ontario Ministry of Labour, etc.

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