
CAEA HARASSMENT POLICY

Effective Dec. 16, 1997



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THE POLICY

CAEA strives to provide an environment that is free of discrimination and supportive of the dignity, self-esteem and fair treatment of everyone involved in its business activities. CAEA will not tolerate discrimination or harassment in its workplace or as part of any of its organizational activities.

RESPONSIBILITY – THE CODE

CAEA recognizes its responsibility, in accordance with The Ontario Human Rights Code, to ensure that all employees are protected from unlawful discrimination and harassment. Equity is also committed to protecting its volunteers from unlawful discrimination and harassment while they are engaged in Equity business. Equity is committed to deal quickly, fairly and effectively with harassment and discrimination should it take place.

RESPONSIBILITY – PERSONAL HARASSMENT

Equity also acknowledges its responsibility, as an association representing performing artists in Canada, to address issues of personal harassment involving Equity employees and volunteers.

POLICY APPLICATION – GROUNDS

Any action or failure to act that results in harassment or discrimination for reasons of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, handicap, age, marital status, family status, the receipt of public assistance or record of offences, is a violation of the Ontario Human Rights Code and will not be tolerated by Equity. Any action or failure to act that results in personal harassment will not be tolerated by Equity.

POLICY APPLICATION – WHERE?

CAEA will not tolerate harassment or discrimination in its employment or business dealings, whether these actions take place on its premises or during business-related activities. For those incidents taking place out of the offices of Equity, there must be potential for an adverse impact on work performance or the creation of a negative environment. For example, such activities as a social event or a meeting taking place under the auspices of Equity are covered by this policy. This policy does not apply to situations of employees or volunteers in their roles as performers. In these situations, the harassment clause of the local agreement between Equity and the engager shall apply.

SANCTIONS

A substantiated act of discrimination or harassment may be cause for disciplinary action by Equity up to and including the possibility of discharge in the case of an employee and suspension, or dismissal in the case of a volunteer. In the case of harassment being perpetrated against an Equity staff member or volunteer by a representative of an organization with a contractual relationship with Equity, the action taken may include suspension or termination of that relationship.

POLICY APPLICATION – WHO?

The policy applies to all employees and volunteers (Council members and members of other committees established or recognized by Equity), contractors such as those undertaking construction, provision of service or research, visitors or guests and applicants for employment.

SHARED RESPONSIBILITY

All employees and volunteers share responsibility for creating and maintaining a business environment free from discrimination and harassment.

MANAGEMENT RESPONSIBILITY

The Ontario Human Rights Code provides that a person (such as a manager or supervisor) who has the authority to prevent or discourage harassment and discrimination may be held responsible for failing to do so. All managers and supervisors therefore have a particular duty to deal with such incidents when they ought reasonably to have known that there is an issue to address. This duty includes the obligation to be familiar with and uphold this policy and its procedures and to inform employees. Volunteer leaders also have a similar responsibility to be familiar with and uphold this policy and its procedures.

FAIRNESS FOR ALL

CAEA recognizes its obligation to ensure that this policy and the procedures are fair and applied fairly. Complainants should feel free to bring their complaints forward and those against whom allegations are made should have a full and fair opportunity to meet those allegations.

RIGHT TO GO ELSEWHERE

This policy provides an opportunity to deal with harassment and discrimination issues quickly and fairly. All employees and volunteers are encouraged to follow the policy and procedures. At the same time nothing in the policy is intended to prevent a complainant from using an alternate procedure, such as the Human Rights Code or legal action.

PREVENTING HARASSMENT AND DISCRIMINATION – EDUCATION

While this policy provides a resolution-oriented process for receiving and investigating complaints, its primary purpose is to prevent harassment and discrimination taking place at Equity. To this end Equity is committed to ensure that all employees and volunteers are made aware of the policy through an ongoing programme of information dissemination and training.

PROTECTION FROM REPRISAL

In order to protect individuals who make use of this policy or participate in proceedings as part of the complaint procedure, Equity prohibits reprisal or threat of reprisal against these individuals. Any person who is found to have acted in or threatened reprisal shall be sanctioned.

DIRECTION/EVALUATION

Harassment does not include direction and/or evaluation of an individual in order to have the person improve his or her work performance.

DEFINITIONS

PROHIBITED GROUNDS

Every person has a right to freedom from discrimination in the areas of:

- services, goods and facilities
- the occupancy of accommodation
- contracts
- employment
- membership in vocational associations and trade unions

On the grounds of:

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed
- sex
- sexual orientation
- handicap
- age (18-65 years in employment, 16 years and over in accommodation; 18 years and over in the other areas)
- marital status (includes cohabitation, widowhood, separation)
- family status (parent-child relationship)
- the receipt of public assistance (in accommodation only)
- record of offences (provincial offences, pardoned federal offences - in employment only)

DISCRIMINATION

Any action or behaviour, which negatively affects the status of any employee or volunteer based on a prohibited ground, as identified in "Prohibited Grounds" above.

HARASSMENT

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 may include comment or conduct linked to the prohibited grounds initiated by one person towards another which cause humiliation, offence or embarrassment. Single acts of sufficient severity may constitute harassment. Harassment includes, but is not limited to:

- a) inappropriate or insulting remarks, gestures, jokes, innuendoes or taunting about a person's racial or ethnic background, colour, place of birth, citizenship, ancestry, creed or disability;
- b) unwanted questions or comments about an employee's or a student's private life;
- c) posting or display of materials, articles or graffiti etc. which may cause humiliation, offence or embarrassment on Code-prohibited grounds.

SEXUAL HARASSMENT

One or a series of comments or conduct of a gender-related or sexual nature that is known or ought reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate.

Equity employees and volunteers have the right to be free from:

- a) sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement;
- b) 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.

Sexual Harassment (includes but is not limited to)

- a) unwelcome remarks, jokes, innuendoes or taunting about a person's body, attire, gender or sexual orientation;
- b) unwanted touching or any unwanted or inappropriate physical contact such as touching, kissing, patting, hugging or pinching;
- c) unwelcome enquiries or comments about a person's sex life or sexual preference;
- d) leering, whistling or other suggestive or insulting sounds;
- e) inappropriate comments about clothing, physical characteristics or activities;
- f) posting or display of materials, articles or graffiti etc. which is sexually oriented;
- g) requests or demands for sexual favours which include, or strongly imply, promises of rewards for complying (e.g. job advancement opportunities) and/or threats of punishment for refusal (e.g. denial of job advancement or opportunities).

PERSONAL HARASSMENT

Behaviour directed at an individual, not linked to the prohibited grounds, which has the purpose or effect of unreasonably interfering with the person's work and/or creating an intimidating, humiliating, hostile or offensive environment.

Harassment does not include direction and/or evaluation of an individual in order to have the person improve his or her performance.

Examples may include, but are not limited to:

- a) physically intimidating behaviour and/or threats;
- b) use of profanity (swearing), vulgarity;
- c) ridiculing, taunting, belittling or humiliating another person;
- d) derogatory name-calling.

SYSTEMIC HARASSMENT/DISCRIMINATION

Policies, practices, procedures, actions or inactions that appear neutral but have an adverse impact associated with one of the prohibited grounds.

NEGATIVE ENVIRONMENT

All or part of the above grounds may create a negative environment for individuals or groups. This may have the effect of "poisoning" the work environment. It should be noted that a person does not have to be a direct target to be adversely affected by a negative environment. It includes conduct or comment that creates and maintains an offensive, hostile or intimidating climate.

THE COMPLAINT PROCEDURE – GENERAL GUIDELINES

It is expected that all Equity employees and volunteers will actively support the principles of this policy and the Human Rights Code.

At the same time, Equity recognizes its responsibility to receive allegations of harassment, assist in finding an appropriate resolution, and, when necessary, to investigate infringements. The objective of Equity's involvement in the process is to arrive at an early and just settlement of a complaint in a manner which advances future compliance with the policy and the Human Rights Code. To this end Equity provides the procedures described below.

Complaints under this policy may be initiated by Equity employees and volunteers as identified in "Policy Application – Who?" above.

If a complainant using this policy chooses to use an alternate procedure such as The Human Rights Code or the courts, Equity may decide to either terminate or suspend this procedure.

Any person involved in the complaint process at any stage may seek assistance, be represented and be accompanied by another person of his/her choice during all proceedings.

Confidentiality is to the benefit of all parties involved in the complaint process. Equity understands that it is difficult to come forward with a complaint of harassment or discrimination. It is recognized that it is in both the complainant's and respondent's interest to keep the matter confidential. To protect the interests of all parties involved, Equity and its officials involved in the complaint process, will maintain confidentiality throughout the complaint process to the extent possible under the circumstances and except as required by law.

Confidentiality does not mean anonymity. In the instance of a formal complaint, a fundamental principle is that the respondent must be informed of who has made the allegations at the earliest possible point in the process.

At any point in the complaint process, either party may request that formal mediation be instituted to assist the resolution of the complaint. If the other party is agreeable, Equity will arrange for an independent mediator, who has not been involved in the complaint up until that time, to conduct the mediation.

A complainant has the right to withdraw a complaint at any stage in the complaint process. Equity may continue to act on the issue identified in the complaint in order to comply with its legal obligations.

When Equity determines that the safety of an individual or the community is at risk it will act to the best of its ability to address this situation. This may mean, for the purposes of safety, the procedures outlined in this policy, including confidentiality, will be set aside.

All complaints must be initiated within six months of the incident occurring. In extenuating circumstances a complaint filed beyond the six-month limitation will be considered.

Any of the time frames for the steps outlined below may be extended upon mutual agreement of the parties.

The resolution of all complaints will be noted by Equity through written correspondence to the parties.

Complaints which are trivial, frivolous, vexatious or made in bad faith shall result in sanction against the complainant. The severity of the sanction will be determined based on the seriousness and impact of the complaint.

RESPONSIBILITIES FOR THE POLICY PROCESS

- a) One Policy Advisor, who will be a supervisor or manager, will be appointed by the Executive Director to facilitate the administration of the policy process for employees.
- b) One Policy Advisor, who will be a volunteer, will be appointed by the President to facilitate the administration of the policy process for volunteers
- c) Upon the parties in a complaint agreeing to mediation, a mediator will be appointed by Equity. The mediator will organize and facilitate a process to assist in the resolution of the issues in the complaint.
- d) Failing the resolution of a complaint by other means, and upon receiving a written request by the complainant, Equity will appoint an arbitrator to organize and facilitate a process to come to a decision on the issues in the complaint.
- e) Based on a finding of harassment by the arbitrator, the Executive Director, in the case of an employee, and the President, in the case of a volunteer, will decide upon the appropriate sanction.

THE COMPLAINT PROCESS

COMPLAINANT RESPONSIBILITY

1. Recognizing that it is in the best interests of all parties to resolve complaints, a person who has a complaint under this policy should, when possible, as the initial step towards its resolution, discuss the complaint with the person whose action gave rise to the complaint.
2.
 - a. Where the complainant does not want or is unable to bring the matter directly to the attention of the respondent or where such an approach is attempted and does not produce a satisfactory result, the complainant should contact a harassment policy advisor. All responsibilities undertaken by the harassment policy advisors under this policy will be done in the strictest confidence and distinguished from normal employment or volunteer roles.
 - b. The Policy Advisor will provide information to the complainant regarding the policy and procedure including:
 - the right to file a formal written complaint
 - that if the complainant believes that his or her safety is at risk or threatened by the respondent, that this should be noted and the police should be contacted
 - the right to have an advisor or representative
 - the right to withdraw from any further action at any point
 - the right to use other avenues of recourse
 - that there are time limits which apply to this process as well as others
 - the options available to address a complaint, including alternative dispute resolution
 - the sanctions and redress that are available under this policy, including the possibility of sanctions against a complainant if the complaint is found to be trivial, without merit, frivolous, vexatious or made in bad faith
 - the confidentiality of the process
 - c. The complainant is asked to provide the Policy Advisor with the following information:
 - the name of the respondent
 - the nature of the complaint
 - the time and date of the complaint
 - the names of any witnesses to the event(s) of the complaint
 - the section of the policy that the complainant feels has been contravened by the respondent
 - the solution needed to resolve the complaint
 - d. The Policy Advisor will provide advice to the complainant regarding whether it seems, on the face of the information provided, that the complaint falls within the jurisdiction of the policy. In the case that the Advisor advises that the complaint does not seem to fall under the policy, the complainant may still proceed to the formal complaint stage.
 - e. The Policy Advisor will provide advice to the complainant whether, on the basis of the information provided, an alternative dispute resolution mechanism is in order. If the complainant is agreeable and the respondent also agrees, such a mechanism will be put in place. In a situation where formal mediation is required, the Policy Advisor will consult with the Executive Director to arrange the appointment of the mediator.
3.
 - a. Failing resolution of the complaint during interaction with the Policy Advisor, the complainant may submit a formal complaint in writing. The formal complaint must be submitted to the Policy Advisor on the policy complaint form and must include:
 - the name of the complainant

- the name of the respondent
 - the time and date of the event(s) being complained about
 - the section of this policy the complaint falls under
 - a description of the complaint, detailing the circumstances surrounding the incident
 - desired solution
 - the complaint must be signed and dated by the complainant.
- b. On receiving a written complaint, the Policy Advisor shall, within ten calendar days of receipt:
 - i. acknowledge receipt of the complaint in writing, informing the complainant whether, on a matter of jurisdiction, the complaint will be pursued under this policy, and, if not, the reasons for not pursuing the complaint.
 - ii.
 1. If it has been determined that the complaint will be pursued under this policy, inform the respondent in writing of the complaint, providing a copy of the complaint and giving the respondent an opportunity to respond to the allegations within ten calendar days. The Policy Advisor must provide the respondent with a copy of this policy as well as inform the respondent of his/her rights and responsibilities under the policy, including the right to have a representative and the importance of confidentiality; or
 2. In the event that it is determined that the complaint will not be pursued because it does not fall under the jurisdiction of this policy, the Policy Advisor will inform the respondent in writing that a complaint has been made but will not be pursued further under this policy. The information provided will include a copy of the complaint, the reasons for not pursuing it and a statement that no response to the complaint is required.
 - c. If the complaint is not dismissed, upon receipt of the respondent response to the complaint, the Policy Advisor shall disclose such information back to the complainant within five calendar days of its receipt.
 - d. Within 10 days of the complainant receiving the response of the respondent, the Policy Advisor shall meet separately with the complainant and the respondent to clarify the details of their submissions and to identify the steps that have been taken to attempt to resolve the matter.
 - e. If, after the clarification of the submissions from the parties, the matter has not been resolved, the Policy Advisor shall facilitate the appointment of an independent arbitrator. The arbitrator shall begin the decision-making process within 15 days of this appointment.

The Arbitrator may:

 - i. interview the complainant and the respondent
 - ii. interview witnesses suggested by the two parties
 - iii. interview other witnesses who may provide useful information for the investigation
 - iv. gather evidence using legally permissible means
 - v. organize meetings to hear evidence from the parties or other witnesses
 - vi. submit, within 20 calendar days from the beginning of the arbitration, a written report of the findings to the Executive Director, in the case of an employee, and the President, in the case of a volunteer. In the case of a complaint involving a volunteer and an employee, both the Executive Director and the President shall receive the report.
4. Within ten days of receiving a finding from the arbitrator that the respondent has contravened this policy, the Executive Director, in the case of an employee, and the President, in the case of a volunteer, will write to the parties, providing them with a copy of the arbitrator's report and a decision regarding the sanction that will be imposed.
 5. This decision is not appealable through this policy process.

POLICY ADMINISTRATION

COSTS

Equity shall be responsible for the costs of the administration of this policy including the costs of any mediation or arbitration services. All parties retaining legal or any other assistance shall be solely responsible for the cost incurred.

CONFIDENTIALITY OF FILES

Records pertaining to the complaint will be held in strict confidence in files separate from other personnel or volunteer information. Only records of reprimand or discipline will be placed in an individual's personnel file.

POLICY REVIEW

This policy shall be reviewed at least every three years. In the case of a significant revision of the Ontario Human Rights Code, or as a result of finding that a procedure contained in the policy is either contrary to legal practises or inoperable, the policy may be reviewed and revised when appropriate.

TRAINING OF HARASSMENT POLICY ADVISORS

The roles of the Harassment Policy Advisors are vital to the successful implementation of this Policy:

- a) Equity will arrange for the Policy Advisors to receive appropriate initial and continuing training, as well as support and assistance for carrying out their responsibilities under this policy.
- b) Complaints of harassment or discrimination, by their very nature, frequently concern matters about which people will be sensitive, uncomfortable and embarrassed. A Policy Advisor must be sensitive to the types of complaints which violate the Policy, as well as the effects of such allegations on the complainant and the person being complained about.
- c) Equity recognizes that some complainants may feel uneasy about approaching a particular Policy Advisor. It also recognizes the fact that Policy Advisors themselves are not immune from complaints. In a situation where there is some difficulty, an employee complainant may approach the volunteer Policy Advisor and a volunteer complainant may approach the employee Policy Advisor.

COLLECTION OF DATA/ANNUAL REPORT

The Policy Advisors will gather information, including from mediation and arbitration procedures, and prepare an annual report for the executive director and the president regarding the effectiveness of the policy.

EXECUTIVE DIRECTOR OR PRESIDENT AS RESPONDENT

In the case of the executive director being the respondent in a complaint, the president of Equity shall assume the various responsibilities identified for the executive director in this policy. In the case of the president of Equity being the respondent in a complaint, the executive director shall assume the various responsibilities identified for the president in this policy.

C a n a d i a n A c t o r s ' E q u i t y A s s o c i a t i o n

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