



PACIFIC OPERA VICTORIA
POLICY FOR PROMOTING A RESPECTFUL WORKPLACE

APPROVED BY THE BOARD SEPTEMBER 27, 2018

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INTRODUCTION: STATEMENT OF PRINCIPLES

1. Purposes

The purposes of this policy are to:

- a) promote respect for the dignity of all employees of Pacific Opera Victoria, whether permanent or temporary, full-time or part-time, casual or contracted, and of all Pacific Opera volunteers (including the Board of Directors).
- b) maintain a working environment that is free from discrimination, bullying and harassment;
- c) set out the types of behaviour that may be considered offensive;
- d) provide a process for addressing and resolving concerns about workplace behaviour.

2. Commitment

Everyone has the right to work in a professional atmosphere that is equitable, respectful, and free from bullying, harassment, and discrimination. Pacific Opera Victoria is committed to providing a collegial working environment in which all individuals are treated with respect and dignity.

Workplace bullying, harassment, and discrimination will not be tolerated. Pacific Opera encourages reporting of all incidents of workplace harassment, regardless of who the offender may be.

Pacific Opera acknowledges its responsibility

- a) to support and assist any person subjected to workplace bullying, harassment, or discrimination by anyone, including coworkers, clients, volunteers, supporters, and others who conduct business with Pacific Opera;
- b) to respect the rights of all parties to a fair and equitable process, maintaining confidentiality to the extent possible.

3. Application of the Policy

This policy applies to all staff, artists, and volunteers, i.e., everyone, paid or unpaid, who is working for or representing Pacific Opera in any capacity and in any location.

It applies to any work-related environment, including the Baumann Centre for Pacific Opera Victoria; the Workshop; any location where the business of Pacific Opera is being carried out, including off-site work assignments, performance venues, telephone and electronic communications; official and unofficial work-related social functions; work-related conferences or training sessions; and work-related travel.

4. Confidentiality

To protect the interests of the complainant, the respondent, and persons who report incidents of discrimination, bullying and harassment in the workplace, confidentiality will be maintained at the time of an initial complaint and thereafter throughout the process to the extent permitted.

All information relating to a complaint (including contents of meetings, interviews, results of investigation, and other relevant material) will be disclosed only to the extent necessary to carry out the procedures under the policy, or where disclosure is required by law.

Information collected and retained is subject to the privacy protection provisions of the Personal Information Protection Act, SBC 2003, c. 63, and of the Pacific Opera Privacy Policy.

LEGAL PRINCIPLES

5. Legal Background

5.1 Legislation

Section 13 of the BC Human Rights Code prohibits discrimination in the workplace. The WorkSafeBC Occupational Health and Safety Policy Guideline D3-115-2 (“Anti-Bullying Guidelines”) requires employers to adopt written policies and procedures and to provide training to ensure that supervisors and staff are aware of them.

5.2 Other remedies

The policy is in addition to, and not in substitution for, such rights as an individual may have under the BC Human Rights Code, under the Criminal Code, and under the provisions of the Collective Agreement entered into by Pacific Opera Victoria and the Union (IATSE Local 168) representing Pacific Opera’s unionized employees.

6. Prohibited conduct

Bullying, harassment, discrimination, retaliation, and malicious complaints are prohibited.

6.1 Bullying and harassment

“Bullying and harassment” is defined in B.C.’s Anti-Bullying Guidelines and “(a) includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but (b) excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.”

Bullying and harassment may consist of a single incident or several incidents over a period of time. Mutually acceptable social interaction is not workplace bullying or harassment.

6.2 Discrimination

The BC Human Rights Code prohibits discrimination in employment based on: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age, or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment of that person (“enumerated grounds”). Discrimination that is not based on enumerated grounds is prohibited under the Anti-Bullying Guidelines.

6.3 Retaliation

“Retaliation” is any adverse action taken against an individual for:

- a) invoking this policy in good faith whether on behalf of oneself or another individual;
- b) participating or cooperating in any investigation under this policy; or
- c) associating with a person who has invoked this policy or participated in these procedures.

6.4 Malicious complaints

A “malicious complaint” occurs when a person has made a complaint of bullying, harassment, or discrimination that he or she knows is untrue. Submitting a complaint in good faith (e.g. where the complaint is based on a mistake, a misunderstanding, or a misinterpretation, or where the complaint cannot be proven) does not constitute a malicious complaint.

RESPONSIBILITIES

7.1 Employee and Volunteer responsibilities

Every employee and volunteer has a responsibility to uphold this policy and to ensure that the working environment is free from bullying, harassment, and discrimination by

- a) demonstrating professional conduct and respect for others and honouring diversity and inclusion in the workplace;
- b) not engaging in bullying, harassment, or discrimination;
- c) participating fully and in good faith in any formal complaint, investigation, or resolution process where they have been identified as having potentially relevant information;
- d) reporting any incidents that may be in violation of this policy;
- e) respecting the rights to personal dignity, privacy, and confidentiality pertaining to this policy; and
- f) participating in education and training opportunities aimed at maintaining and promoting a respectful workplace.

7.2 Supervisor responsibilities

Those with supervisory authority have additional responsibilities under the policy to establish and maintain a workplace free of bullying, harassment, and discrimination. Their responsibilities include:

- a) ensuring that bullying, harassment, and discrimination are not allowed, condoned, or ignored and taking immediate action on observations or allegations of bullying, harassment, or discrimination;
- b) acting as a role model for professional and respectful conduct;
- c) providing training on this policy, and on bullying, harassment, and discrimination;
- d) ensuring that everyone has full access to information regarding Pacific Opera's policies and standards;
- e) notifying police when there are reasonable grounds to believe that a violation of the Criminal Code or other applicable law has occurred;
- f) respecting the rights of all parties to a fair, equitable, and confidential process for dealing with complaints of bullying, harassment, or discrimination;
- g) supporting any person who complains of workplace bullying, harassment, or discrimination by a person who is not an employee or volunteer (e.g. contractor, supplier, etc.)
- h) taking remedial or disciplinary measures, where appropriate;
- i) appointing and training appropriate advisors and investigators;
- j) reviewing the provisions of this policy annually to ensure that they adequately meet the policy objectives.

7.3 Advisor Responsibilities

Internal Advisors will be appointed by the President of the Board and the CEO, acting jointly.

External Advisors are on staff with an external HR Consulting firm, which is on retainer for Pacific Opera and are available for professional guidance.

Each advisor should be well respected and able to discuss a complaint with the complainant or respondent, regardless of that person's seniority; empathetic and sensitive to the nature and effects of bullying, harassment and discrimination; trusted as a person who will observe the principles of confidentiality; and properly trained to deal with complaints of bullying, harassment, and discrimination.

Advisors are responsible for:

- a) conveying information about this policy and the process for making a complaint;
- b) assisting individuals who have concerns or complaints regarding workplace bullying, harassment, or discrimination;
- c) helping a complainant to move through the steps of this policy;
- d) keeping a written record of any complaint;
- e) maintaining confidentiality of communications relating to inquiries and complaints, unless under an obligation to disclose the information by law or under this policy; and
- f) referring individuals who require counseling to the appropriate resources.

Advisors are not responsible for investigating or determining the merits of a complaint of workplace bullying, harassment, or discrimination, but they are encouraged to resolve the issue informally. Advisors are not investigators, decision-makers, or counsellors. They help to clarify options available, answer questions and explain the policy.

7.4 Investigator responsibilities

One or more investigators will be appointed by the President of the Board and the CEO who will consult with the complainant and the respondent before making any appointment. Investigators will be knowledgeable about human rights and will be responsible for:

- a) investigating every complaint that is not resolved informally;
- b) applying principles of fairness and impartiality throughout the investigation;
- c) interviewing parties and witnesses;
- d) preparing written reports that include findings of fact and conclusions;
- e) maintaining confidentiality of records of complaints, unless under an obligation to disclose the information by law or under this policy;
- f) making a decision, based on the investigation, whether the policy has been violated;
- g) determining, in conjunction with the appropriate level of management, what action will be taken as a result of the investigation findings.

7.5 Education and training

All individuals charged with implementing and applying the policy will be properly trained and fully versed in the specifics of the policy, the law, interviewing techniques, and information gathering, and on bullying, harassment, and discrimination.

BULLYING AND HARRASSMENT IN THE WORKPLACE

8. Workplace Conduct

Bullying and harassment includes any inappropriate conduct and unwelcome actions by any person – whether verbal (either in person or through written or electronic communication), or physical – which the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated.

Examples of conduct that may constitute bullying and harassment include, but are not limited to, the following:

- Verbal Harassment such as unwelcome attention or comments of a sexual nature, unwarranted criticism, ridicule, derogatory comments, offensive remarks, malicious complaints, gossip, threats, shouting;
- Physical Harassment such as interfering with a person’s normal movement, unwelcome physical contact, including touching and assault.
Sexual harassment such as unwanted physical contact, confining another’s personal space, leering, dirty jokes, pictures or pornographic materials, innuendos, requests or demands of a sexual nature, offers of job related benefits in return for sexual favours.
Physical harassment can also include conduct such as vandalizing, damaging or removing personal belongings.
- Psychological Harassment such as ostracism or bullying, including conduct, comments, actions or gestures that are hostile or that affect a person’s dignity or psychological integrity
- Visual Harassment such as displaying or disseminating pornographic, sexist, racist or other offensive or derogatory material (e.g. posters, cartoons, drawings, photographs, etc.) including via e-mail, internet, or text message.

PROCEDURES

9. External Avenues

While Pacific Opera is committed to resolving incidents of bullying, harassment, and discrimination internally, nothing in this policy precludes a complainant from pursuing other avenues of redress, including making a complaint under the:

- a) Criminal Code;
- b) BC Human Rights Code;
- c) Collective Agreement entered into by Pacific Opera and its unionized employees.

During the initial meeting between the complainant and advisor, the advisor will notify the complainant of the external avenues of redress, and the applicable time limits.

10. Initial Action

10.1 Document what happened

A person who considers that he or she, or someone else, has been subjected to bullying, harassment, or discrimination (the complainant) should keep a written record of the alleged offensive behaviour, including the date(s), time(s), circumstances, witnesses (if any), and any other pertinent information.

10.2 Approach the person responsible

The complainant is encouraged but not required to bring the matter to the attention of the person responsible for the conduct (the “respondent”).

10.3 Discuss with a supervisor

If the complainant is not comfortable bringing the matter directly to the attention of the respondent, or if an attempt to do so isn’t satisfactory, the complainant may approach a supervisor, such as a department head, the CEO, Equity deputy, stage manager, or shop steward.

10.4 Discuss with an internal advisor

If the complainant is not comfortable with the above measures or they don’t produce a satisfactory result, internal advisors are available to help clarify options, answer questions, and explain the policy.

Any person may meet with an advisor to obtain information about this policy; discuss concerns about workplace bullying, harassment, or discrimination; and discuss alternative courses of action available under this policy, and externally.

Once a complainant has approached an advisor, the advisor will provide the complainant with a copy of this policy and will advise the complainant of the:

- a) importance of keeping a written record of incidents of bullying, harassment, or discrimination;
- b) right to make an informal or formal complaint under this policy;
- c) right to be accompanied or represented by a lawyer or any other person of his or her choice at any stage of the process where the complainant is required or entitled to be present.
- d) right to withdraw from any further action regarding the complaint at any stage; and
- e) right to take the complaint to other resources, such as B.C. Human Rights Tribunal or the police.

Where a person believes that a colleague has experienced or is experiencing workplace bullying, harassment, or discrimination, and reports this belief to an advisor, the advisor will meet with the person who is said to have been subjected to workplace bullying, harassment, or discrimination, and will then proceed in accordance with the following.

10.5 Outcomes of meeting with advisor

If the complainant and the advisor agree that the conduct in question is not workplace bullying, harassment, or discrimination as defined in this policy, the advisor will take no further action and will maintain a record of the meeting in his or her confidential file.

If the complainant and the advisor agree that the conduct in question may be workplace bullying, harassment, or discrimination as defined in this policy, the complainant may choose to initiate an informal or formal complaint. The advisor will remind the complainant of the importance of documenting incidents of bullying, harassment, or discrimination, and may assist the complainant in creating a written record.

The advisor will create a written record of the meeting, which will be kept in the complainant’s personnel file, marked “Confidential”.

10.6 Contact an external advisor

The complainant may consult an external HR Consulting firm, which is on retainer for Pacific Opera, for professional guidance.

11. Complaints

At this time, the complainant may choose to initiate an informal or formal complaint.

11.1 Notice of Complaint

If a complainant initiates an informal or formal complaint, the advisor will provide the respondent with:

- a) a copy of this policy;
- b) written notice of the complaint;
- c) notice of the respondent's right to be represented by legal counsel or other person of choice at any stage of the process where the respondent is required or entitled to be present; and
- d) information about the availability of counseling, educational, and other support services that may be available.

11.2 Informal Complaint Procedure

Where appropriate, the advisor will offer the parties an opportunity to resolve the issue informally. As part of the informal process, the complainant may, with the assistance of the advisor, meet with the respondent with a view to arriving at a solution to the situation.

Where the complainant and the respondent are satisfied that they have achieved an appropriate resolution, the advisor will make a confidential written record of the resolution, which the advisor will keep in a locked filing cabinet. The written record will be signed by both parties.

The advisor will follow up with both parties to ensure that the solution is working.

11.3 Formal Complaint Procedure

If the complainant is not satisfied with the results of the informal procedure, or chooses not to utilize the informal procedure, the complainant may request the appointment of an investigator and make a formal written complaint.

One or more investigators, either a legal expert or the HR firm on retainer, will be appointed by the President of the Board and the CEO who will consult with the complainant and the respondent before making any appointment.

At any time after a formal complaint has been initiated, the complainant may make a request for temporary accommodation until the complaint resolution process comes to an end. Every effort will be made to reasonably accommodate the complainant.

Temporary accommodation may include limiting contacts between the complainant and respondent by relocating the respondent to another area of the workplace or allowing the complainant to report to work with someone other than the respondent. Care must be taken to support the complainant and the respondent to ensure that their career development is not negatively affected as the process unfolds.

12. Investigation

The investigator will interview the complainant, respondent, and witnesses. The investigation will be completed in a timely manner. Upon completion of the investigation, the investigator will prepare a written report that includes findings of fact.

12.1 Action following investigation

Based on the outcome of the investigation, the investigator in conjunction with the appropriate level of management, will decide whether the policy has been violated, and what action will be taken as a result of the findings. The complainant and respondent will be informed of the outcome of the investigation and any decisions as to whether the policy has been violated.

12.2 Complaint not substantiated

If an investigation results in a finding that the complaint of workplace bullying, harassment, or discrimination is not substantiated, no record will be placed in the respondent's file. The investigator will ensure that all other documentation will be kept in a locked filing cabinet.

If an investigation results in a finding that the complainant made a malicious complaint, the investigator in conjunction with the appropriate level of management will implement an appropriate remedial action, based on the nature and severity of the violation, in accordance with the "remedial action" section of this policy (see section 13). The outcome of the proceedings will be recorded in the complainant's personnel file and may be used in any investigation of a subsequent complaint.

12.3 Complaint is substantiated

Where the investigation results in a finding that the complaint of workplace bullying, harassment, or discrimination is substantiated, the investigator in conjunction with the appropriate level of management will implement an appropriate remedial action, based on the nature and severity of the violation.

Where the complaint is substantiated, the confidential outcome of the proceedings will be recorded in the respondent's personnel file and may be used in any investigation of a subsequent complaint.

13. Remedial action

Remedial action may include:

- a) an apology;
- b) educational training;
- c) counseling;
- d) reprimand;
- e) reassignment;
- f) withholding a promotion;
- g) a financial penalty;
- h) probation;
- i) a suspension, with or without pay;
- j) dismissal, with or without notice.

14. Appeal Process

A complainant should be informed of the right to file an application with WorkSafe BC or the BC Human Rights Tribunal if he or she is dissatisfied with the disposition of the complaint.

APPENDIX 1: ARTICLES 2 AND 3 OF THE COLLECTIVE AGREEMENT 2017-2020, BETWEEN PACIFIC OPERA AND THE UNION (IATSE Local 168) REPRESENTING ITS UNIONIZED EMPLOYEES

ARTICLE 2 – General Purpose

2.01 The employer and the Union hereby agree that it is to their mutual interest to establish and maintain a relationship of goodwill, stability, and respect between the employer and the employees as represented by the Union.

2.02 The general purpose of this agreement is to establish and maintain mutually satisfactory working conditions, hours of work and wages and to provide for security and the prompt and equitable disposition of grievances for both parties, subject to the provisions of this agreement.

2.03 All of terms and conditions of this agreement shall apply equally to all employees without discrimination as to sex, race, age, or religion as defined by the Human Rights Act of British Columbia.

2.04 The Employer shall ensure a workplace free from any form of harassment as outlined in the Human Rights Act of British Columbia.

The employer will maintain a Bullying and Harassment Policy that complies with the regulations of Worksafe BC. Such policy shall be by mutual agreement of the Employer and the Union. The policy shall be given to all employees and clients in writing.

- a. Every employee has the right to work in a harassment free environment.
- b. Sexual harassment shall be defined as any sexually oriented practice that undermines an employee's health, job performance or workplace relationships or endangers an employee's employment status or potential.
- c. Personal harassment shall be defined as any practice that undermines an Employee's health, job performance or workplace relationships or endangers an employee's status or psychological well-being.

2.05 Where the masculine is used in this agreement it shall be taken to mean and include the feminine.

ARTICLE 3 – Union Recognition

3.01 The employer recognises the Union as the sole collective bargaining agent for all employees performing work as outlined in this agreement

APPENDIX 2: COMPLAINT FORM

Workplace Bullying and Harassment – Reporting Procedures

Workers may report incidents or complaints of workplace bullying and harassment verbally or in writing. When submitting a written complaint, please use the format below. When reporting verbally, the reporting contact / advisor, along with the complainant, will fill out the complaint form. Incidents or complaints should be reported as soon as possible after experiencing or witnessing an incident.

Workplace Bullying and Harassment – Formal Complaint Form

Name and contact information of complainant _____

Name of alleged respondent _____

Personal statement

Please describe in as much detail as possible the bullying and harassment incident(s), including:

- The names of the parties involved
- Any witnesses to the incident(s)
- The location, date, and time of the incident(s)
- Details about the incident(s) (behaviour and/or words used)
- Any additional details that would help with an investigation

Attach any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, can also be submitted.

Signature

Date

APPENDIX 3: RESPONSE FORM

Workplace Bullying and Harassment – Response Form

Workers who are the subject of a workplace bullying / harassment complaint may respond verbally or in writing. When submitting a written response, please use the format below. When reporting verbally, the reporting contact / advisor, along with the respondent, will fill out the response form as soon as possible after receipt of the complaint.

Name and contact information of respondent _____

Name of complainant _____

Personal statement

Please provide particulars regarding the incident(s) and your response to the complaint. Details may include the names of the parties involved, any witnesses, location, date, and time of the incidents, and any additional details that would help with an investigation

Attach any supporting documents, such as emails, handwritten notes, or photographs.

Signature

Date

APPENDIX 4: ADVISOR CHECKLIST

Once a complainant reports offensive behaviour to an advisor, the advisor will gather as much information as possible in order to ascertain whether there is evidence of workplace harassment sufficient to justify an investigation.

- Confirm the name and position of person complaining.
- Ascertain who allegedly bullied, harassed, or discriminated against the employee.
- What occurred? Try to get as many details as possible, even though this may be uncomfortable for the complainant. Ask open-ended, non-judgmental questions.
- How often did the harassment occur?
- On what dates and at what times did the harassment take place?
- Where did the incidents of harassment take place?
- Who, if anybody, witnessed the incidents of harassment?
- How did the complainant feel about the harassment at the time it occurred?
- Does the complainant feel the same way now? If not, what is different about how the complainant now feels, and what brought about the difference?
- How did the complainant respond to the harassment? Did the complainant make any effort to stop it?
- Did the complainant tell anyone else about the incidents of harassment? If so, get the details concerning who, what, when, where, and the response, if any.
- Does the alleged harasser have control over the compensation, working conditions, or future employment of the complainant?
- Has the alleged harasser made or carried out any threats or promises in connection with the alleged harassment?
- Does the complainant know of or suspect that there are other victims of harassment by the same person?
- What action would the complainant like Pacific Opera to take?

Once this information has been ascertained, the advisor will prepare or assist the complainant in preparing a written complaint.

APPENDIX 5: ADVISORS

A complainant may contact Pacific Opera's Internal Advisors, who are available to help to clarify options, answer questions, and explain the Respectful Workplace Policy (*contact information available from supervisors or through the Pacific Opera office: 250.382.1641*)

Internal Advisors

D. Heather Raven, QC, Brokenhead Ojibway First Nation, Member of the Board, Pacific Opera Victoria
Dr. Lydia Wingate, Vice President of the Board, Pacific Opera Victoria

A complainant may consult the following external HR Consulting firm, which is on retainer for Pacific Opera, for professional guidance.

External Advisor

Engaged HR Inc.
Office 250.385.7784
hrhelp@engagedhr.com