CT24.5

Civic Theatres Toronto

EMPLOYMENT POLICY

<u>Title</u>	Effective Date	Policy Number
Workplace Violence and Harassment Policy	January 1, 2018	201

Civic Theatres Toronto (CTT) is committed to creating and maintaining a positive and professional workplace which is free from workplace violence. In support of this, CTT will regularly review the potential activities that may lead to workplace violence and put preventative and reporting measures in place. In addition, CTT expressly prohibits any form of discrimination and harassment as defined under the Ontario Human Rights Code, and any form of workplace harassment, including sexual harassment, as defined by the Ontario Occupational Health & Safety Act. All measures are specifically designed to meet the requirements under the Ontario Occupational Health & Safety Act.

SCOPE

This policy applies to the following:

- All CTT workers, including those employed on a contract basis, plus supplied labour, client personnel, independent contractors and volunteers;
- Members of the Board of Directors and members of subcommittees of the Board;
- Persons or corporations, including contractors, in a contractual relationship or engaged in business with CTT; and,
- Patrons, visitors and members of the public on CTT premises.

NOTE:

People who work on CTT premises, but are employed by another company (example: actors working for a presenter), are also encouraged to review the Workplace Violence & Harassment Policy for that company, if applicable.

Employees who are represented by a union may seek advice and/or request the presence of their Union steward.

REFERENCES

- 1. Occupational Health & Safety Act, Part III.0.1 Violence and Harassment
- 2. Ontario Human Rights Code

FORMS (see APPENDICES)

- 1. Appendix A Workplace Violence or Harassment Incident Report
- 2. Appendix B Workplace Harassment Investigation Template

TRAINING

Appropriate instruction and information will be provided to all workers so that workers know:

Workplace Violence

- how to summon immediate assistance;
- how to report incidents of workplace violence to the employer or supervisor;
- how the employer will investigate and deal with incidents, threats or complaints;
 and
- understand and be able to carry out the measures and procedures that are in place to protect them from workplace violence.

Workplace Harassment

- how to report incidents of workplace harassment to the employer or supervisor;
- how to report incidents of workplace harassment where the employer or supervisor is the alleged harasser;
- how the employer will investigate and deal with incidents or complaints of workplace harassment;
- how information about an incident or complaint of workplace harassment will be kept confidential; and,
- that the results of an investigation and any corrective actions will be provided to the worker who alleged harassment and to the alleged harasser (if working for the same employer).

All workers will be trained on the Workplace Violence and Harassment Policy, as well as any procedures for individual departments and positions.

POSTING

This policy will be posted in a conspicuous location in the workplace on the Health and Safety Boards.

REVIEW

The Workplace Violence and Harassment Policy is developed and maintained in consultation with the Joint Health & Safety Committee. The policy will be reviewed annually, or when any gaps are identified as a result of an incident or investigation.

VIOLATIONS OF THIS POLICY

All workers are expected to abide by this policy. Workers who violate this policy may be subject to disciplinary measures, up to and including termination of employment. Violations of this policy may also lead to civil and/or criminal liability.

PART 1 – WORKPLACE VIOLENCE

DEFINITION

Workplace Violence (Occupational Health & Safety Act, Section 1(1))

- 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 it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Violence may come from a variety of possible sources, including workers, contractors, worker domestic partners, patrons, visitors and the general public.

Specific examples of workplace violence may include, but not be limited to:

- a) shaking a fist in a worker's face;
- b) wielding a weapon at work;
- c) hitting or attempting to hit, or throwing an object at another worker;
- d) sexual violence against a worker; or
- e) trying to run down a worker using a vehicle or cause harm using other equipment, i.e. power tools.

Workplace violence does not include most accidental situations, even if a worker is hurt as a result of the accident.

Reprisal

Reprisals or threats of reprisal, particularly by a person in authority, are defined as acts or threats designed to punish an individual. There shall be no reprisal against any individual who, in good faith, reports an incident of violence or participates in an investigation.

PREVENTION AND INTERVENTION

Prevention and intervention are key to achieving an environment free of workplace violence. CTT supports this by providing a clear policy statement and an internal reporting system, and by providing training.

Assessing Risks

CTT and the Joint Health & Safety Committee will participate in assessing the potential risks of workplace violence. This assessment will take into account the common risks at similar workplaces and risks specific to the company. Such risks will be reviewed as often as necessary to ensure workers are protected from workplace violence, but at a minimum, annually.

Certain changes will prompt a reassessment of risks, including:

- if certain workplace locations are moved, renovated, or reconfigured
- if there are significant changes to the conditions of work, such as the hours of work, or the ways in which workers interact with the public
- a violent incident indicates a risk that was not identified in an earlier assessment

Disclosing Persons with a History of Violence

CTT is required to disclose information to workers including personal information, about a person with a history of violent behaviour if:

- a) the worker can be expected to encounter that person in the course of his or her work; and
- b) the risk of workplace violence is likely to expose the worker (and potentially coworkers) to physical injury.

Such disclosure shall only be made following consultation and discussion with the Human Resources Generalist, who shall consider the nature of the violence, how long ago the violence occurred, and if appropriate, the triggers of the aggression. Only information that is reasonably necessary to protect workers from physical injury will be disclosed.

REPORTING & RESOLVING ISSUES

Immediate/Emergency Concerns

- 1. Workers who are concerned about their immediate safety should remove themselves from the violent or potentially violent situation immediately.
- 2. Call police at 911. Identify the street address when making the emergency call.
- 3. Next, call Stage Door to let them know police have been called.
- 4. Alert the supervisor as soon as possible.

Consultation & Information

Individuals can obtain information about workplace violence or discuss an incident with an advisor including their immediate supervisor, their manager, Human Resources Generalist or their union representative, where applicable. Such informal consultation will not constitute a report of workplace violence.

Reporting Violence or Threats of Violence

Workers are required to report any incident which may be considered workplace violence or threat of workplace violence as soon as possible to their immediate supervisor. The report should outline the details of the incident, any witnesses who were present, and any physical evidence of the violence or threat. (See Appendix A Workplace Violence or Harassment Incident Report.)

Alternatively, if you believe that you have experienced violence, harassment and/or discrimination in the workplace you may also consult and/or file a complaint with the following third party XXXXXXX at (### - ######).

Confidentiality

Information gathered during the investigation and contacts made will be documented and maintained in a confidential file, separate from the personnel file, by the Human Resources Generalist. To the extent possible, information gathered during the investigation will be kept confidential. Information about a complaint or incident will not be disclosed except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or as otherwise required by law. Those involved in the investigation, including witnesses, will be advised that all information discussed must be kept confidential. A breach of such confidentiality will be subject to disciplinary action.

Investigation of Reported Incidents

All CTT workers, including contractors, must co-operate fully in any investigation under these guidelines. Any report of workplace violence or potential of workplace violence will be fully investigated. The report will provide details of the violent incident, or potential of violence, including dates, times, places, names of individuals involved and names of any witnesses. The person filing the report will be advised that the Human Resources Generalist will conduct an investigation.

The investigation will include interviews with the person who filed the report, any relevant individual(s) named in the report, and relevant witnesses. External agencies specializing in issues of workplace violence, and/or the police, may be informed or consulted during this process.

Following the investigation, the Human Resources Generalist will provide a written report of recommendations to address the incident or potential of violence, which may include (but not be limited to): disciplinary action of the person responsible for the violence (if another worker), requirement to provide a formal apology, appropriate counselling for those involved, and/or discussion with the aggressor regarding expected and appropriate workplace behaviour and responsibilities.

Right to Refuse Unsafe Work

A worker may refuse to work or do particular work where he or she has reason to believe that that workplace violence is likely to endanger him/her. The worker may remove him/herself from his or her workstation and remain in a safe place. Such work refusal shall follow the requirements of the Occupational Health & Safety Act, Section 43.

Reporting Domestic Violence

CTT is required to take all reasonable precautions to protect any worker if a domestic violence situation is likely to expose a worker or workers to physical injury in the workplace, and the employer is aware or ought reasonably to be aware of the situation. Reasonable precautions will be determined on a case-by-case basis and may include the development of an individual safety plan for the affected worker. Domestic violence is considered violence between two persons who currently have, or have had in the past, a personal intimate relationship, such as a spouse, partner, boyfriend, or girlfriend.

Reporting to the Joint Health & Safety Committee

CTT will report any incident of workplace violence to the relevant Joint Health & Safety Committee where a worker is disabled from their regular duties and/or requires medical attention as a result of workplace violence, within four days of its occurrence.

Reporting to the Ministry of Labour

When an incident of workplace violence results in a person being killed or critically injured, CTT will notify an inspector (Ministry of Labour), the Joint Health & Safety Committee and the trade union, if any, of the occurrence immediately by telephone, and in writing to the Director (Ministry of Labour) within 48 hours of the incident.

PART 2 - WORKPLACE HARASSMENT

DEFINITIONS

Unlawful Discrimination (Ontario Human Rights Code, Part I, Subsection 5) Prohibited grounds of discrimination, with respect to employment are defined by the Ontario *Human Rights Code* as being: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

Workplace Harassment (Occupational Health & Safety Act, Section 1(1))

- a) 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
- b) workplace sexual harassment

Harassment based on any of the prohibited grounds under the Ontario *Human Rights Code* is considered discrimination. Other forms of workplace harassment are considered inappropriate and detrimental to a positive working environment and will not be tolerated.

Examples of harassment include, but may not be limited to:

- a) unwelcome remarks, jokes, insults, nicknames, innuendo, or taunting;
- b) bullying;
- c) repeated offensive or intimidating phone calls or emails;
- d) posters, notices, bulletins, or electronic photos which may cause offence and encourage discrimination, or create a hostile environment;
- e) racial or ethnic slurs, and use of terminology that reinforces stereotypes based on prohibited grounds;
- f) abuse of supervisory authority that endangers a person's employment, work performance or interferes or negatively influences the person's career. This includes misuses of power including intimidation, threats, blackmail and coercion;
- g) public humiliation or degrading behaviour to a subordinate or co-worker; swearing or yelling, at subordinate or co-worker in an aggressive manner.

What is not considered harassment:

- a) reasonable action or conduct by a manager or supervisor relating to the management and direction of workers or the workplace, even if there are possible unpleasant consequences for a worker (e.g. disciplinary action, performance management, changes to schedules or duties, implementation of policies, etc.);
- b) differences of opinion or disagreements between co-workers which are handled respectfully.

Workplace Sexual Harassment (Occupational Health & Safety Act, Section 1(1))

- 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.

Specific examples can include, but may not be limited to:

- a) unwelcome remarks, jokes, innuendoes, or taunting about a person's body, attire or sex;
- b) practical jokes of a sexual nature which cause awkwardness or embarrassment;
- c) displaying pornographic pictures, posters, graffiti or other offensive material;
- d) questions or comments about an individual's sexual preferences;
- e) leering (suggestive staring) or other obscene or suggestive gestures;
- f) unwanted sexual flirtations, advances, or propositions;
- g) unwanted physical contact including touching, kissing, patting and pinching;
- h) persistent unwanted contact or attention following the end of a consensual relationship;
- i) conduct such as stalking.

Reprisal

Reprisals or threats of reprisal, particularly by a person in authority, are defined as acts or threats designed to punish an individual who has reported discrimination or harassment; or threats designed to dissuade an individual from reporting discrimination or harassment.

In sexual harassment cases, reprisals can also be defined as acts designed to punish an individual who has rejected sexual advances; or threats if sexual advances are rejected.

There shall be no reprisal against any individual who, in good faith, reports an incident of harassment or discrimination or participates in an investigation.

It is important to note that issues of harassment and sexual harassment may escalate over time into threats, or acts of physical violence. Alternatively, a victim of harassment

or sexual harassment may react violently to prolonged harassment in the workplace. Workplace violence will not be tolerated.

PREVENTION AND INTERVENTION

Prevention and intervention are key to achieving an environment free of discrimination and harassment. CTT supports this by providing a clear policy statement and an internal reporting system, and by providing training regarding worker and employer rights and responsibilities.

Condoning

If a person in authority knows, or should reasonably have known, that discrimination or harassment may have occurred and fails to take appropriate action, the person in authority has condoned the discrimination or harassment and may be subject to sanctions such as disciplinary measures, up to and including termination of employment, under this policy.

Individuals who observe a situation involving the harassment of, or discrimination against, another or others have a responsibility to inform the harasser of this policy, and report it to the Human Resources Generalist, recognizing that individuals who experience discrimination or harassment are often reluctant to report it.

Self-help Measures

Individuals who feel they are victims of harassment have a right and responsibility to take self-help measures wherever possible or pursue the complaint process. Whenever and wherever possible, self-help measures should be used prior to filing a formal complaint. This includes communicating with the harasser (i.e., telling them face-to-face, telephoning, or writing) indicating that his/her behaviour is offensive and unwanted. It is recognized that self-help measures may be challenging to implement, particularly if the harasser is a patron or the individual's supervisor.

Consultation & Information

Consulting with an advisor (e.g. the Human Resources Generalist) does not mean that a complaint is being lodged. Individuals can obtain information about harassment or discuss an incident with an advisor including their immediate supervisor, their manager, the Human Resources Generalist or their union representative, where applicable. Informal consultation, assistance or advice can be sought through the Human Resources Generalist. In some circumstances, CTT will take action even when a formal complaint is not filed by a complainant.

REPORTING & RESOLVING ISSUES - COMPLAINT & MEDIATION PROCEDURE

Confidentiality

To the extent possible, information gathered during the investigation will be kept confidential. Information about a complaint or incident will not be disclosed except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or as otherwise required by law. Those involved in the investigation,

including witnesses, will be advised that all information discussed must, be kept confidential. A breach of such confidentiality will be subject to disciplinary action.

Anyone may report discrimination or harassment. Workers have CTT's assurance that all complaints made in good faith will be handled confidentially.

Should a complainant or respondent choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the complainant's or respondent's own expense.

All workers, including the respondent(s), are encouraged to co-operate fully in any investigation under these guidelines.

Step 1: Filing of a Formal Complaint

- The complainant will submit a written complaint to the Human Resources Generalist. The complaint will provide details of the alleged harassment, including dates, times, places, names of individuals involved and names of any witnesses. (See Appendix A Workplace Violence or Harassment Incident Report.) The complainant will be advised that the Human Resources Generalist will conduct an investigation, following the Appendix B Workplace Harassment Investigation Template. The investigation will include interviews with the complainant, the respondent and, if necessary, any relevant witnesses
- The Human Resources Generalist will meet with the respondent and provide him/her with an opportunity to respond. The respondent will be advised that the Human Resources Generalist will conduct an investigation. This investigation will include interviews with the complainant, the respondent and, if necessary, any relevant witnesses. The Human Resources Generalist will request a written response from the respondent within ten days, or as soon as possible.
- Witnesses will be interviewed as necessary.
- The Human Resources Generalist will meet with the complainant and respondent, either individually or together, where appropriate.
- The meeting(s) may result in a mutually acceptable resolution, or CTT may need to take corrective action, as needed.
- Upon completion of the investigation, the appropriate persons (complainant and respondent/alleged harasser) will be advised, in writing of the conclusions reached and of any corrective action that has been taken or that will be taken as a result of the investigation.
- Should the investigation not substantiate the complaint, the Human Resources Generalist will advise both the complainant and the respondent.
- Should the investigation substantiate the complaint, appropriate corrective action will be taken. The Human Resources Generalist will provide, to both the complainant and the respondent, a written report of recommendations to address the harassment. These may include (but are not limited to): a formal apology, appropriate counselling for those involved, a mediation meeting with both parties (the nature of which would be determined on a case-by-case basis), discussion with

the respondent regarding expected and appropriate workplace behaviour and responsibilities, and/or disciplinary action, up to and including termination.

 Complaints that are found to be trivial, frivolous, vexatious or made in bad faith may result in disciplinary action against the complainant. The severity of the action will depend on the seriousness and impact of the complaint.

Alternatively, if you believe that you have experienced violence, harassment and/or discrimination in the workplace, you may also consult and/or file a complaint with the following third party XXXXXXX at (### - ###-####).

At all times, CTT will ensure an impartial/unbiased person investigates the complaint.

Step 2: Other Options

Despite the processes set out in this policy, individuals have a right to resort to the enforcement of their rights and obligations under the applicable legislation.

Record Keeping

Information gathered during the investigation and contacts made will be documented and maintained in a confidential file, separate from the personnel file, by the Human Resources Generalist. Records to be kept on file include a copy of the complaint or details about the incident; a record of the investigation including notes; copies of witness statements, if taken; a copy of the investigation report, if any; a copy of the results of the investigation that were provided to the worker who reported workplace harassment and the alleged harasser; and a copy of any corrective action taken to address the complaint or incident of workplace harassment. For Occupational Health & Safety Act purposes, records must be kept for at least one year from the conclusion of the investigation.

Clyde Wagner President and CEO

DATE

<u>APPENDIX A - WORKPLACE VIOLENCE OR HARASSMENT INCIDENT REPORT</u>

CTT workers are required to report all incidents of workplace violence and harassment to Human Resources Generalist. This form may be completed, or alternatively, used as a guideline to assist in reporting the appropriate information; written submission in any form will be accepted. Refer to the Workplace Violence and Harassment Policy for further info.

Workplace Violence

Workplace violence is defined as:

- 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 it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Violence may come from a variety of possible sources, including workers, contractors, worker domestic partners, clients and the general public.

Workplace Harassment

- a) 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.
- b) workplace sexual harassment

Workplace Sexual Harassment

- c) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expressed, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- d) 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.

Worker Information	
Name:	Job Title:
Home phone:	Cell phone or alternate contact:
Please confirm the preferred method of contact: □ Phone □ Email □ Other:	Email address (optional):

Description of Incident(s) (attach additional sheets, if necessary)

Please describe the incident (s) including the following:

- names of individuals involved in the incident (if known), and/or description of individuals
- location, date and time of the incident(s)
- any witnesses, including names and contact information
- details about the incident(s) (behavior and/or words used)

Relevant documents/evidence

Attach any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, can also be submitted. If you are not able to attach relevant documents, please list them. If someone else has relevant documents, please note that.

Description of Incident(s) (attach additional sheets, if necessary) Signature of Individual reporting Date Received by (Employer representative) Date

<u>APPENDIX B - WORKPLACE HARASSMENT INVESTIGATION TEMPLATE</u>

This template may be used for guidance in investigating workplace harassment incidents or complaints. It may not be appropriate for complex workplace harassment investigations. The person conducting the investigation must not have been involved in the incident or complaint of workplace harassment and must not be under the direct control of the alleged harasser. Refer to the Workplace Violence and Harassment Policy for further info.

(Source: Ministry of Labour https://www.labour.gov.on.ca/english/hs/pubs/harassment/schedulee.php)

Name of Investigator:	Job Title/ Department:		
Date of Investigation:			
A. BACKGROUND INFORMATION - Who are the people involved? Are they workers as defined by Occupational Health & Safety Act (OHSA)? Who reported and when?			
Name of the person who reported workplace harassment:	Job Title/ Department:		
Name of the person who allegedly experienced workplace harassment (if not the same as above):	Job Title/ Department:		
Date complaint/concern raised and how:			
Name of the worker(s) (complaining or possible exposed to workplace harassment):	Job Title/ Department:		
Name of respondent(s) (alleged harasser) If not a worker, provide details.	Job Title/ Department:		

B. INVESTIGATION PLAN - Plan and Conduct the Investigation □ Obtain the worker(s) concerns of harassment in writing, if possible. Assistance should be provided in completing the form where necessary. ☐ An investigator needs to interview the worker who allegedly experienced workplace harassment and the alleged harasser (if a worker of the employer). If the alleged harasser is not a worker of the employer, the investigator should make reasonable efforts interview him or her. ☐ Make a list of possible relevant witnesses. The worker who allegedly experienced workplace harassment and the alleged harasser should be asked for names of any relevant witnesses. ☐ Interview relevant witnesses. Ask specific questions about what they have observed, are aware of or have personally experienced. If the witnesses are not workers of the employer, the investigator should make reasonable efforts to interview those witnesses. □ Collect and review relevant documents from the worker, alleged harasser, witnesses and the employer. □ Take detailed notes. ☐ Keep the investigation confidential. Instruct the worker who allegedly experienced workplace harassment, the alleged harasser and witnesses not to talk to others about the investigation unless it is necessary, for instance, to obtain advice or counselling. C. WORKER(S) CONCERNS/WORKPLACE HARASSMENT ALLEGATIONS When did the incident(s) occur? Confirm date of first incident and any subsequent behaviours or conduct. Note that recalling events of harassment can be stressful for the complainant. □ Date of first incident □ Date of last incident ☐ Date of other incident(s) D. ALLEGED HARASSER(S) RESPONSE ☐ The alleged harasser(s) will likely need details of the allegation of harassment to be able to respond. E. INTERVIEW RELEVANT WITNESSES ☐ List witnesses. Interview relevant witnesses and make notes. F. COLLECTED DOCUMENTATION ☐ List the documents collected for the investigation and how or from whom they were obtained. G. INVESTIGATION RESULT(S) - The investigator's summary report should set out who was interviewed, what evidence was obtained and an analysis of the evidence to determine whether workplace harassment occurred. □ Summary of key evidence ☐ Recommended next steps □ Report provided to: