

# Statement of Values and Community Code of Conduct

## Statement of Values

Orchestra Toronto is an inclusive, welcoming community of musicians who play together for the love of music. As a community, we treat all members with respect and dignity. We uphold the Ontario Human Rights Code. We do not tolerate discrimination or harassment on the basis of ancestry, citizenship, race, place of origin, colour, citizenship, creed/religion, sexual orientation, gender, gender expression, marital status, family status and disability. We do not tolerate sexual harassment. We maintain a safe space for all members of our community.

If you feel that any community member's words or actions have made the space less safe or welcoming, or if you feel that any community member's words or actions have compromised the respect and dignity of any or all members of the Orchestra, please speak with the Executive Director, the Personnel Manager, or a member of the Musicians' Committee.

We value the safety and the inclusive nature of our community, and will take necessary steps to preserve it.

This policy applies to all members of the Orchestra Toronto community, including staff, independent contractors, guest artists, volunteers, members, student fellows, and apprentices. Any member of the OT community who is found to be violating this policy will be subject to disciplinary action, up to and including the termination of their relationship with Orchestra Toronto.

The provisions of this policy and procedure in no way affect the right of any person to exercise his, her, or their rights under the Ontario Human Rights Code.

## Procedures for resolving complaints

Whenever possible or appropriate in the circumstances, anyone who is experiencing sexual misconduct or harassment (the "complainant") should try to address the conduct in question with the person who they believe has engaged in that conduct. Complainants are encouraged to explain to the person who is harassing them or discriminating against them that the conduct is unwelcome. **However, complainants are not obliged to raise the concern directly with the other person or persons.** If the complainant does not want to or feels they cannot do so, the complainant is encouraged to approach either the **Executive Director** or a member of the **Board**, with the concern. If the complainant has tried to resolve the problem by addressing it directly with the person who they believe has engaged in the conduct, and has not had success, the complainant is encouraged to approach the Executive Director or a member of the Board. If the

complaint relates to the Executive Director's behaviour, the complainant should approach a member of the Board directly.

Attached to this Policy is a list of the current Executive Director, Music Director and Board of Directors, with contact information. It shall be updated from time to time to be current.

## What happens if you report a violation of this Code:

The Orchestra Toronto Board and management will immediately and discreetly investigate all allegations of violations of the Code of Conduct. All complaints will be treated as confidential, and anyone bringing forth a complaint will be protected from reprisals. If the Orchestra concludes that harassment occurred, we will take prompt and effective action to ensure the safety and dignity of our community. This may include disciplinary action, up to and including the immediate dismissal of the member or employee who has violated the Code of Conduct and termination of their relationship with the Orchestra.

The Board will determine the appropriate Staff or Board member who will lead and be responsible for conducting the investigation. The Board may choose to retain external counsel or a neutral third party to conduct the investigation on their behalf and provide a recommendation to the Board. The individual or group conducting the investigation will in no way report to any person who might be the subject of the investigation.

In either case, the complainant will be asked either to write down the complaint or to describe the complaint orally to the person whom they approach, and that person will write it down. If the person taking the complaint writes it down, the person making the complaint will have the opportunity to review the written details and confirm that it has accurately reflected their experience. The description should include details of:

- What happened – a description of the events or situation
- When it happened – dates and times of the events or incidents
- Where it happened
- Who saw it happen – names of witnesses, if any and their actions at the time of disclosure.

The person(s) assigned by the Board to investigate the complaint will notify the person(s) who is the subject of the complaint and provide such person(s) with a copy of the written complaint.

Complainants and persons who are the subject of complaints are entitled to seek representation of their choice, including legal counsel, during the complaints process, at their own expense.

Any investigation into a complaint will include the following steps, where possible:

- an interview with the complainant, which will be recorded or documented;
- an interview with the person(s) alleged to have engaged in the conduct that is the subject of the complaint, which interview will be recorded or documented;
- interview(s) with any witnesses who are identified as likely having relevant information to provide, which interviews(s) will be recorded or documented;

- collection and review of any possibly relevant documents; and any other steps the investigator(s) deems relevant to the investigation of the complaint.

The investigator is responsible for ensuring a thorough, fair and impartial investigation of the allegations in the complaint. The investigator will prepare a written report summarizing the allegations and the investigation results.

Any staff or members of the Board involved in receiving or investigating complaints, including those interviewed during the investigation, will protect the confidentiality and privacy of persons involved in a complaint, subject to the requirements of a fair and thorough investigation and resolution process.

The results of any investigation will be provided to the Board, in confidence. A Board member who is the subject of this complaint must excuse him/herself from all such discussions. The Board, in consultation with the General Manager and Artistic Director, if they were not the subject of the complaint, shall decide, based on the findings of the investigator, whether the policy has been violated and, if so, whether to impose sanctions or corrective action on the person who was the subject of the complaint.

Within 20 days of the investigation being completed, the complainant and the person whose conduct is the subject of the complaint will be provided with a copy of the investigator's report and the decision regarding the outcomes of the investigation.

The Executive Director will keep the following records of the complaint and investigation for a period at least ten years:

- a copy of the complaint or details about the incident;
- a record of the investigation including notes;
- a copy of the investigation report (if any);
- a summary of the results of the investigation; and
- a copy of any corrective action taken to address the complaint or incident.

All records of the investigation will be kept confidential and retained separately from personnel files in a secure location. The investigation documents, other than the report and findings, should not be disclosed unless required by law. The report and findings may be disclosed where necessary to investigate a further incident or complaint under this policy, whether involving the same individuals or not, to determine appropriate future discipline of anyone involved in the complaint or otherwise as required by law.

Any case of sexual misconduct or other criminal activity regarding a minor will be reported to the appropriate authorities.

Where any provision of this Policy is inconsistent with the applicable law, the law shall prevail to the extent of that inconsistency, and the balance of the Policy remains in force.

In the event of a dispute arising out of the application or interpretation of this Policy, the laws of the province of Ontario will apply to this Policy.

## Protection of persons bringing complaints forward

A person who believes that he, she, or they has been subjected to harassment or discriminatory behaviour should be able to file a complaint under the procedure.

No person shall be negatively treated for bringing forward a complaint in good faith, providing information related to a complaint, or helping to resolve a complaint.

## Annual Review

On at least an annual basis, a member of Orchestra Toronto's Board of Directors ("Board"), chosen by the Chair, will review this policy to ensure that it continues to adhere to all relevant legislation. The Board will review the recommendation(s) and decide on policy changes.

**This policy approved by the Board of Directors on January 9, 2019**

## Appendix A: Definitions

**Sexual Misconduct** is any behaviour of a sexual nature which is non-consensual or any form of sexual activity with a minor in circumstances where such activity is prohibited by law.

**Discrimination:** means any form of unequal treatment based on a Human Rights Code of Canada ground, whether such treatment involves imposing burdens, obligations or disadvantages or denying benefits or opportunities. It may be intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but disadvantage certain groups of people on the basis of one of the characteristics identified in the *Code*. Discrimination, however, requires more than there being a distinction in how people are treated; the distinction must have an arbitrary impact due to the identified characteristic. Even if there are many factors affecting a decision or action, if a discriminatory consideration is one factor that is a violation of this policy.

**Harassment:** means engaging conduct that is known or ought reasonably to be known to be unwelcome. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning or unwelcome. Harassment occurs regardless of whether the vexatious comments or conduct are on the basis of a protected ground.

If a person does not explicitly object to harassing behaviour, or appears to be going along with it, this does not mean that the behaviour is acceptable. The behaviour could still be considered harassment.

**Sexual and gender-based harassment:** Sexual harassment is a particular type of harassment and discriminatory conduct that also cannot be tolerated. The term “gender” includes male, female and non-binary people. Sexual harassment may take a variety of forms, such as:

- Gender-related comments about a person’s physical characteristics or mannerisms
- Paternalism based on gender which a person feels undermines his or her self-respect or position of responsibility
- Unwelcome physical contact
- Suggestive or offensive remarks or innuendoes about members of a specific gender
- Propositions of physical intimacy
- Gender-related verbal abuse, threats or taunting
- Leering or inappropriate staring
- Bragging about sexual prowess or questions or discussions about sexual activities
- Offensive jokes or comments of a sexual nature about an employee or client
- Rough and vulgar humour or language related to gender

- Display of sexually offensive pictures, graffiti or other materials including through electronic means
- Derogatory or offensive comments or gestures relating to a person's sexual identity, sexual orientation or sexual preference

**Poisoned environment:** a poisoned environment is created by comments or conduct (including comments or conduct that are condoned or allowed to continue when brought to the attention of management) that create a discriminatory work environment. The comments or conduct need not be directed at a specific person, and may be from any person, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned environment.

# Appendix B: How to Make a Complaint Regarding a Violation of the Code of Conduct

## Who May Make a Complaint

You should make a complaint if

- You feel that you have experienced harassment, discriminatory behaviour, or other behaviour that poisons the Orchestra environment
- You have witnessed harassment, discriminatory behaviour, or other behaviour that poisons the Orchestra environment

## What to do

- 1) Make a note of the time, date, and people involved in the incident. If there were any witnesses to the incident, it can help to get their names too.
- 2) Contact one of the following people:
  - o The Executive Director: [executive.director@orchestratoronto.ca](mailto:executive.director@orchestratoronto.ca) or 416-467-7142
  - o The Personnel Manager: [personnel@orchestratoronto.ca](mailto:personnel@orchestratoronto.ca)
  - o The Musicians Committee: [musicians.committee@orchestratoronto.ca](mailto:musicians.committee@orchestratoronto.ca)
  - o The Board of Directors (see list attached to this policy)

You may submit your concern in writing or orally. If you do not want to write your complaint down, the person you contact will write notes about what you say, and will ask you to read their notes over and sign that you agree with their notes about your complaint.

Your complaint should include as much of the following information as possible:

- o What happened – a description of the events or situation
- o When it happened – dates and times of the events or incidents
- o Where it happened
- o Who saw it happen – names of witnesses, if any, and their actions at the time of disclosure.

## What happens next

The person who receives your complaint may ask you some questions in order to better understand what happened and how to resolve the situation. You may ask if the situation can be resolved “informally,” or that a formal investigation be launched. The person who receives your

complaint will discuss it with the Board. If your complaint involves a member of the Board, that person will not be included in the discussion.

#### Informal resolution

If you and the Board decide that an informal resolution is appropriate, the Board will appoint a member or team of members to work with you to resolve the situation to your satisfaction. A record of your complaint and the actions taken will be kept in a secure file.

You should never feel pressured to agree to a resolution that does not make you feel safe, supported, and valued as a member of the community.

#### Formal investigation

If you and the Board pursue a formal investigation, the Board will appoint an investigator to investigate your complaint, report to the Board, and recommend a course of action. The investigator will begin immediately. Your identity will remain confidential. The investigator will will

1. Notify the person who is the subject of the complaint that someone has made a complaint and of the nature of the complaint.
2. Attempt to interview you, and record and document that interview.
3. Interview and witnesses who may have relevant information, and record and document those interviews.
4. Collect and review any other relevant documents
5. Interview the person who is the subject of the complaint, and record and document that interview.

The investigator may also take other steps, if they seem necessary.

The investigator will prepare a written report, and present that report, with recommendations to the Board.

The Board will determine a course of action. The Board will communicate that course of action to all parties involved in the complaint.