



## Statement of Values and Community Code of Conduct

### Statement of Values

Orchestra Toronto (“the Orchestra” or “OT”) 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 and the Ontario Health and Safety Act. 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, a member of the Musicians’ Committee, or a member of the Board of Directors.

We value the safety and the inclusive nature of our community, and will take necessary steps to preserve it. This Code of Conduct 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 Code of Conduct will be subject to disciplinary action, up to and including the termination of their relationship with Orchestra Toronto.

The provisions of this Code of Conduct and procedure in no way affect the right of any person to exercise their rights under the Ontario Human Rights Code and the Ontario Health and Safety Act.

## Definitions

**Bias** – Disproportionate favour of or against an idea, concept, object, act, deed, belief, person or group, usually in a manner that is closed-minded, prejudicial or unfair.

**Bullying** - A distinct form of personal harassment, which may include any of the following:

- (a) loud, abusive behaviour;
- (b) unjustified criticism;
- (c) shunning behaviours (including withholding information, ganging up, deliberate isolation from colleagues or exclusion from joint activities);
- (d) repeated delegation of demeaning tasks and microaggressions.

**Complainant** – The individual alleging the harassment or misconduct.

**Discrimination** - Any form of unequal treatment based on the Human Rights Code of Canada, 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 Human Rights 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, a discriminatory consideration is one factor that is a violation of this Code of Conduct.

**Harassment** – Engaging in a course of vexatious comment or conduct against an individual that is known or ought reasonably to be known to be unwelcome. This can involve unwelcome words or actions that are known or should be known to be inappropriate, offensive, embarrassing, humiliating or demeaning. It can also include behaviour that intimidates, isolates or even discriminates against the targeted individual(s).

**Investigator(s)** - The person(s) chosen to lead and be responsible for conducting the investigation of any complaint made involving Orchestra Toronto.

**Racial Discrimination** – Any discrimination against individuals on the basis of skin colour, racial expression, racial or ethnic origin. Individuals can discriminate by refusing to work with, socialize, or share resources with others of a certain race.

**Racism** – Prejudice, discrimination, or antagonism directed against a person(s) or people(s) on the basis of their membership of a particular racial or ethnic group, typically one that is marginalized.

**Respondent** - The individual(s) against whom the allegation of harassment or misconduct is made.

**Worker** – Any of the following:

(a) A person who performs work or supplies services for monetary compensation. This includes senior management, full time and term employees, as well as seasonal and casual employees.

(b) A secondary school student who performs work or supplies services for no monetary compensation under a work experience program authorized by the school board that operates the school in which the student is enrolled.

(c) A person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution.

(d) A person who receives training from an employer, but who, under the *Employment Standards Act, 2000*, is not an employee for the purposes of that Act because the conditions set out in subsection 1 (2) of that Act have been met.

(e) Such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation.

**Workplace** – Any land, premises, location or thing at, upon, in or near which a worker works [*Workplace Harassment Under Ontario's OHS Act*, section 1].

**Workplace harassment** – 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. Workplace harassment can involve unwelcome words or

actions that are known or should be known to be inappropriate, offensive, embarrassing, humiliating or demeaning to a worker or group of workers, in a workplace. It can also include behaviour that intimidates, isolates or even discriminates against the targeted individual(s).

This may include:

- (a) making remarks, jokes or innuendos that demean, ridicule, intimidate, or offend;
- (b) displaying or circulating offensive pictures or materials in print or electronic form;
- (c) bullying and microaggressions;
- (d) racial discrimination and actions demonstrating racism;
- (e) repeated offensive or intimidating phone calls or e-mails; or
- (f) workplace sexual harassment.

**Workplace sexual harassment** - 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

making a sexual solicitation or advance where the person making it 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 the solicitation or advance is unwelcome [*Workplace Harassment Under Ontario's OHSA*, section 1].

Workplace sexual harassment can involve unwelcome words or actions associated with sex, sexual orientation or gender that are known or should be known to be inappropriate, offensive, embarrassing, humiliating or demeaning to a worker or group of workers, in a workplace. It can also include behaviour that intimidates or isolates individual(s).

Workplace sexual harassment may include:

- (a) asking questions, talking, or writing about sexual activities;
- (b) rough or vulgar humour or language related to sexuality, sexual orientation or gender;
- (c) displaying or circulating pornography, sexual images, or offensive sexual jokes in print or electronic form;

- (d) leering or inappropriate staring;
- (e) invading personal space;
- (f) unnecessary physical contact, including inappropriate touching;
- (g) demanding hugs, dates, or sexual favours;
- (h) making gender-related comments about someone's physical characteristics, mannerisms, or conformity to sex-role stereotypes;
- (i) revealing personal details of an intimate nature to an audience that would find it unwelcome;
- (j) verbally abusing, threatening or taunting someone based on gender or sexual orientation; or, (k) threatening to penalize or otherwise punish a worker if they refuse a sexual advance.

### **Procedures for resolving complaints**

Whenever possible or appropriate in the circumstances, 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, or if the Complainant has tried to resolve the problem by addressing it directly with the person whom they believe has engaged in the conduct and has not had success, the Complainant is encouraged to approach either the Executive Director or a member of the Musicians' Committee with the concern. If the complaint relates to the Executive Director's behaviour, the Complainant should approach a member of the Board directly.

### **Who may make a complaint**

You should make a complaint if:

- 1) You feel that you have experienced harassment, discriminatory behaviour, or any of the other behaviours noted above that poisons the Orchestra environment
- 2) 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:

- The Executive Director
- A member of the Musicians' Committee
- A member of the Board of Directors

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 and date that you agree with their notes about your complaint.

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

- 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.

## **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 be asked 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. If the complaint is against a member of the Board,

that member will not be involved with any Board decisions until the situation is resolved. 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 decide to pursue a formal investigation, the Board will appoint an ad-hoc committee of investigators within seven (7) days of the decision to formally investigate your complaint, report to the Board, and recommend a course of action. If the Respondent is a member of the Board, they will temporarily suspend their Board duties to maintain the integrity of 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.

### **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 in good faith will be protected from reprisals. If the Orchestra Board and Management concludes that harassment occurred, the Board 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 worker who has violated the Code of Conduct and termination of their relationship with Orchestra Toronto.

Each Complainant and Respondent is 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 Respondent(s), which will be recorded or documented;
- interview(s) with any witnesses who are identified as likely having relevant information to provide, which 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(s) is responsible for ensuring a thorough, fair and impartial investigation of the allegations in the complaint. The Investigator(s) will prepare a written report summarizing the allegations and the investigation results.

The results of any investigation will be provided to the Board, in confidence. The Board shall decide in camera, based on the findings of the Investigators, whether the Code of Conduct has been violated and, if so, whether to impose sanctions or corrective action on the Respondent.

Within 20 days of the investigation being completed, the Complainant and the Respondent will be provided with a copy of the Investigator(s)'s report and the decision regarding the outcomes of the investigation.

A delegate of the board will keep the following records of the complaint and investigation for a period of 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 Code of Conduct, 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 Code of Conduct is inconsistent with the applicable law, the law shall prevail to the extent of that inconsistency, and the balance of the Code of Conduct remains in force.

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

### **Protection of persons bringing complaints forward**

A person who believes that he, she, or they have 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.

Please note, confidentiality does not mean anonymity. It may be possible, in some circumstances, to maintain the anonymity of a party to a complaint. However, in order to maintain the fairness of the investigation, the Respondent must be able to knowledgeably address the details of a complaint, and that may involve informing them of the identity of the Complainant. In the case of a third-party complaint, the identity of the Complainant will remain confidential until the legitimacy of the incident can be verified by the subject of the complaint (who may or may not be the Complainant) and further investigation is required.

### **Annual Review**

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