

Opera.ca
WORKPLACE HARASSMENT POLICY

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Anti-Harassment Policy

Opera.ca is committed to providing a workplace where all workers are treated with respect and dignity. Workplace harassment will not be tolerated from any person in the workplace, including other workers, supervisors, members of the board of directors, clients, members of the public and such other persons who are involved with or receive services from Opera.ca.

Workers who are found to have harassed another individual may be subject to disciplinary action. This includes any worker who interferes with the resolution of a harassment complaint, retaliates against an individual for filing a harassment complaint, or files an unfounded harassment complaint intended to cause harm.

All new and returning workers at Opera.ca will participate in respectful workplace training at the beginning of their employment or contract.

1. INDIVIDUALS COVERED

1.1 Who is covered?

This Policy applies to all current workers of Opera.ca and addresses workplace harassment from all sources, .

Workers include:

- Full and part time employees
- Casual employees
- Fixed term employees
- Volunteers and interns
- Independent contractors
- Members of the Board of Directors
- Conference participants, guest, exhibitors, sponsors and speakers at meetings held by Opera.ca.
- Job applicants.

1.2 To what does it apply?

This Policy applies to all behaviour that is in some way connected to work, including all off-site meetings, training, conferences and business trips

2. DEFINITIONS

The following definitions apply in this Policy:

2.1 "workplace harassment" means,

- (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.

Workplace harassment may include but is not limited to:

- verbal abuse, including verbal aggression, yelling, shouting and intimidation by threatening violence;
- unwelcome remarks, jokes, innuendoes or taunting for any reason, including about a person's body, attire, age, marital or family status, ethnic or place of origin, religion, race, sexual orientation, gender identity or gender expression, disability, ancestry, colour, citizenship, creed, sex, record of offences, etc.;
- practical or "dirty" jokes which cause awkwardness or embarrassment;
- stalking, leering, staring or gestures;
- display of pornographic, racist or other offensive or derogatory pictures or other material;
- condescension, intimidation or paternalism which undermines self-respect;
- unwelcome or unwanted physical contact, including but not limited to patting, pinching, brushing up against, cornering, or any other similar physical contact or written solicitation normally considered unacceptable by another individual;

- repeated offensive or intimidating phone calls or e-mails;
- physical assault;
- workplace sexual harassment.

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment or harassment of any other kind.

2.2 "workplace sexual harassment" means,

- (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.

Workplace sexual harassment may include but is not limited to:

- Unwanted physical conduct such as pinching, grabbing, patting, rubbing, brushing up against another person's body, sexual assault (which is also a criminal matter), sexual intercourse, unnecessary physical contact, kissing. In other words, any kind of touching that has a sexual connotation;
- Verbal conduct such as making derogatory and/or demeaning comments about a person's appearance or body including insulting comments and gestures, insulting nicknames, verbal abuse or threats, unwelcome remarks, jokes, innuendoes or taunting;

- Comments about a person's or colleague's personal life including inviting a colleague out when it's clear the person doesn't want to socialize with you, making sexual propositions, spreading false rumours about a person's sex-life or morals, referring to sexual affairs with previous employees, questions regarding sex life;
- Environmental examples such as the display of pornographic or other offensive pictures, or display or sexually suggestive objectives and/or pictures in the workplace. Making practical jokes that cause awkwardness or embarrassment, crude, sexual or abusive remarks, making suggestive comments, innuendoes, and sexual jokes.
- Differential treatment of employees or co-workers;
- Verbal or written comments, jokes, teasing, and/or other communication of a sexual nature;
- Demeaning language based on gender or sexual preference;
- Graphic comments about an individual's body;
- Use of sexually degrading words to describe an individual;
- Foul or obscene language and/or gestures;
- A promise of better treatment in return for sexual favours; and/or,
- Indirect or expressed threats for refusal of a sexual request.

2.3 Bullying as Harassment:

Bullying is defined as targeted behaviour with the objective to disempower. Bullying can take many forms, from overt behaviours such as yelling, rudeness and physical intimidation to subtle forms such as ignoring someone and/or excluding them from social situations and meetings.

While a worker can be singled out by others for bullying behaviour for a variety of reasons, some of these reasons may be discriminatory under human rights legislation as members of a protected group are often easier to target.

Bullying as harassment may include but is not limited to:

- offensive, intimidating, malicious or insulting behaviour and/or an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient;
- the use of hurtful or denigrating comments, use of physical force, destruction of personal property, nonverbal threatening gestures, and social or physical exclusion; and
- often a repeated, ongoing behaviour. However, single incidents of bullying are included under this policy.
- Criticism, isolations and exclusion of another; humiliation, invasion of privacy
- Baiting or unreasonable teasing, i.e. singing derogatory songs and inserting the person's name: cruel nicknames
- Nasty practical jokes and humiliating initiation practices or hazing
- Spreading malicious rumours

- Ignoring the person
- Withholding necessary information
- Removing areas of responsibility without cause;
- Exclusion from work discussions, communication or other work-related activities, i.e. deliberately withholding workflow so that a person cannot make a firm budget.

2.4 Workplace Violence

Workplace violence is typically defined as physical force, an attempt to use physical force, or a threat of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker. Workplace violence can be caused by strangers, by guests or by colleagues. Similarly, domestic violence can become a workplace issue if the perpetrator of the domestic violence comes to the workplace to harm the worker.

Workplace violence includes, but is not limited to:

- Harming, bullying, or threatening to harm any worker or member of the public;
- damaging or threatening to damage the property of the organization or any worker or member of the public;
- possessing a dangerous weapon or incendiary device; and/or
- engaging in stalking behavior with respect to any worker.

2.5 Role of intention

Harassment may be intentional or unintentional. However, it is noted that where an allegation of harassment is made, the intention of the alleged harasser is irrelevant and will not be given consideration when meting out discipline, it is the aftereffect of the behaviour upon the individual that is important and determinative.

3. **RESPONSIBILITIES AND EXPECTATIONS**

3.1 Opera.ca is responsible for:

- providing all workers with a harassment-free workplace.

3.2 The Secretary-Treasurer (S-T) is responsible for:

- ensuring that this Policy is applied in a timely, consistent and confidential manner;
- determining whether allegations of harassment are substantiated; and
- determining what corrective action is appropriate where a harassment complaint has been substantiated.

3.3 The Executive Director is responsible for:

- the administration of this Policy;

- reviewing this Policy annually, or as required; and
- making necessary adjustments to ensure that this Policy meets the needs of the organization.
- fostering a harassment-free work environment and setting an example about appropriate workplace behaviour;
- communicating the process for investigating and resolving harassment complaints made by employees;
- dealing with harassment situations immediately upon becoming aware of them, whether or not a harassment complaint has been made;
- taking appropriate action during a harassment investigation, including separating the parties to the harassment complaint, when appropriate; and
- ensuring harassment situations are dealt with in a sensitive and confidential manner.

3.4 Workers are responsible for:

- treating others with respect in the workplace;
- reporting harassment if you receive or witness the behaviours;
- cooperating with a harassment investigation and respecting the confidentiality related to the investigation process;

3.5 Workers can expect:

- to be treated with respect in the workplace;
- that reported harassment will be dealt with in a timely, confidential and effective manner;
- to have their rights to a fair process and to confidentiality respected during a harassment investigation; and
- to be protected against retaliation for reporting harassment or cooperating with a harassment investigation.

4. **HARASSMENT OFFICERS**

HARASSMENT OFFICERS shall be either the Executive Director, the Chair or the Secretary-Treasurer.

4.1 Role

The role of the harassment officer is to:

- Listen to a worker's concern about harassment
- Remain neutral and not form an opinion about the merit of an allegation
- Provide information about the procedures for addressing a harassment complaint
- Where appropriate, provide support for a worker if they want to try and resolve the issue personally
- Carry out the duties and responsibilities designated in sections 5 through 8.
- Be present during any meetings or conversations if requested to do so.

4.2 Delegations

The Harassment Officer, at any time, may choose to delegate the responsibilities in sections 5 through 8, to another Harassment Officer with the permission of the worker, or to an external consultant or mediator.

5. **PROCEDURES FOR ADDRESSING A HARASSMENT COMPLAINT**

5.1 Workers are encouraged to report any incidents of workplace harassment to a Harassment Officer.

You may choose the most appropriate HARASSMENT OFFICER to discuss your matter, in the event that your complaint involves one of the HARASSMENT OFFICERS.

It is your responsibility to bring those kinds of problems to our attention, using the procedures outlined in the Policy, so that we can take the necessary steps to correct the problem. The report should include all facts available to the worker regarding the alleged harassment behaviours.

5.2 What to do if you believe someone else is being harassed:

If you have knowledge of harassment committed by or against another worker, you are encouraged to immediately bring it to the attention of a HARASSMENT OFFICER.

If you are aware of harassment, help us prevent it by reporting it. Prompt reports are important; they help Opera.ca eradicate harassment and facilitate prompt and thorough investigations. For this reason, the worker should always make a report as soon as possible. Workers should not wait for a situation to become worse or unbearable before making a report.

6. **FILING A COMPLAINT – WORKERS**

6.1 Where to start?

A worker may file a harassment complaint and report an incident by contacting any one of the harassment officers named in 4.0. The complaint may be verbal or in writing. If the complaint is made verbally, the HARASSMENT OFFICER will record the details provided by the worker.

The report of the incident must include the following information:

- (a) Name(s) of the complainant(s) and contact information;
- (b) Name of the alleged harasser(s), position and contact information (if known);
- (c) Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known);
- (d) Details of what happened including date(s), frequency and location(s) of the alleged incident(s):

- (i) Any supporting documents the worker who complains of harassment may have in his/her possession that are relevant to the complaint
- (ii) List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

Complaints should be made as soon as possible but no later than within one year of the last incident of perceived harassment, unless there are circumstances that prevented the worker from doing so.

6.2 Notice

The HARASSMENT OFFICER will tell the respondent (i.e the alleged harasser) in writing that a harassment complaint has been filed against them. The letter will also provide details of the allegations that have been made.

6.3 Timeline

Every effort will be made to start an investigation into a complaint within 5 days by the HARASSMENT OFFICER. The Harassment Officers will advise both parties of the reasons why if it is not possible.

If either party to a harassment complaint believes that the complaint is not being handled in accordance with this Policy, they should contact any one of the other harassment officers.

7. **MEDIATION**

7.1 Purpose

Wherever legally appropriate and possible, the parties to the harassment complaint will be offered mediation prior to proceeding with a harassment investigation.

Mediation is voluntary and confidential. It is intended to assist the parties to arrive at a mutually acceptable resolution to the harassment complaint.

7.2 Process

The mediator will be a neutral person, agreed upon by both parties. The mediator will not be involved in investigating the complaint.

Each party to the complaint has the right to be accompanied and assisted during mediation sessions by a HARASSMENT OFFICER or a person of their choosing.

7.3 Acceptable Mediator

An acceptable third-party mediator is an accredited professional member with ADR Institute of Ontario, ADR Institute of Canada, or member of another provincial ADR Institute. <http://adr-ontario.ca/>, <http://adric.ca/>.

8. INVESTIGATION

8.1 Commitment to investigate

Opera.ca will ensure that an investigation appropriate in the circumstances is conducted when the employer, human resources, a manager or supervisor becomes aware of an incident of workplace harassment or receives a complaint of workplace harassment. Opera.ca will investigate and deal with all complaints or incidents of workplace harassment in a fair, respectful and timely manner.

8.2 Who Will Investigate

A Harassment Officer will determine who will conduct the investigation into the incident or complaint of workplace harassment. If the allegations of workplace harassment involve senior leadership, the Executive Director and above, the employer will refer the investigation to an external investigator to conduct an impartial investigation.

8.3 Timing of the Investigation

The investigation must be completed in a timely manner and generally within 90 days or less unless there are extenuating circumstances (i.e. illness, complex investigation) warranting a longer investigation.

8.4 Investigation Process

The person conducting the investigation whether internal or external to the workplace will, at minimum, complete the following:

- (a) The investigator must ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation. The investigator should remind the parties of this confidentiality obligation at the beginning of the investigation.
- (b) The investigator must thoroughly interview the worker who allegedly experienced the workplace harassment and the alleged harasser(s), if the alleged harasser is a worker of the employer. If the alleged harasser is not a worker, the investigator should make reasonable efforts to interview the alleged harasser.
- (c) The alleged harasser(s) must be given the opportunity to respond to the specific allegations raised by the worker. In some circumstances, the worker who allegedly experienced the workplace harassment should be given a reasonable opportunity to reply.
- (d) The investigator must interview any relevant witnesses employed by the employer who may be identified by either the worker who allegedly experienced the workplace harassment, the alleged harasser(s) or as necessary to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses who are not employed by the employer if there are any identified.

- (e) The investigator must collect and review any relevant documents.
- (f) The investigator must take appropriate notes and statements during interviews with the worker who allegedly experienced workplace harassment, the alleged harasser and any witnesses.
- (g) The investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the worker who allegedly experienced the workplace harassment, the response from the alleged harasser, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether workplace harassment was found or not.

8.5 Interim Measures

In certain circumstances such as where safety is at issue, it may be necessary to take immediate measures. In such a case, interim measures shall be determined by the Harassment Officer, in consultation, where appropriate, with other staff members or legal counsel. Interim measures may include but are not limited to relocating a party or placing a party on a non-disciplinary suspension with pay, pending the resolution of the complaint or the outcome of the investigation.

8.6 Results of the Investigation

Within ten (10) days of the investigation being completed, the worker who allegedly experienced the workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed in writing of the results of the investigation and any corrective action taken or that will be taken by the employer to address workplace harassment.

8.7 Confidentiality

Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect workers, to investigate the complaint or incident, to take corrective action or otherwise as required by law.

While the investigation is on-going, the worker who has allegedly experienced harassment, the alleged harasser(s) and any witnesses should not to discuss the incident or complaint or the investigation with each other or other workers or witnesses unless necessary to obtain advice about their rights. The investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.

All records of the investigation will be kept confidential.

9. FINDINGS

9.1 Legal Advice

If necessary, legal advice will be obtained to assist with the investigation or to provide advice regarding any corrective action to be taken.

9.2 Progressive Discipline

If the complaint is found to be substantiated, disciplinary actions will be determined jointly by the Executive. Any worker found to have engaged in conduct that violates this Policy will be subject to progressive discipline, up to and including termination of employment or contract.

Given the serious nature of workplace harassment allegations, including the impact they may have on the person who is alleged to have behaved in an inappropriate manner, frivolous complaints found to have been made for improper purposes will result in progressive discipline of the complainant, up to and including termination of employment or contract.

9.3 Reprisals

Managers, supervisors and workers are expected to adhere to this Policy, and will be held responsible by Opera.ca for not following it. Workers shall not be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.

Any worker who commits or threatens reprisal against another worker for following this Policy in good faith may be subject to progressive discipline, up to and including termination of employment or contract.

9.4 Remedies

Remedies for the worker who was harassed may include and is not limited to: an oral or written apology; compensation for lost wages; compensation for any lost employment benefits such as sick leave; and compensation for hurt feelings, or other remedies appropriate to the situation.

9.5 Restorative Action

Following the investigation, the Harassment Officer will Implement a workplace restoration process. The process might include both formal and informal ways to address any issues that have arisen during the course of the investigation. Considerations will include:

- how widely to communicate the fact that the investigation has ended;
- how to bring closure regarding the investigation;
- potential staff training; and,
- coaching for supervisors to reinforce conduct expectations.

10. RECORD KEEPING

Opera.ca will keep records of the investigation including:

- (a) A copy of the complaint or details about the incident;
- (b) A record of the investigation including notes;
- (c) A copy of the investigation report, if any;
- (d) A summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and the alleged harasser, if a worker of Opera.ca
- (e) A copy of any corrective action taken to address the complaint or the incident of workplace harassment.

Records will kept for at least one (1) year.

11. COMPLAINTS AGAINST THE EXECUTIVE DIRECTOR

If a complaint is being made against the Executive Director, the individual making the complaint may request the Secretary-Treasurer bring the complaint to the attention of the Chair of the Opera.ca Board of Directors. This complaint will be processed by the Chair who will assume the duties and responsibilities of HARASSMENT OFFICER designated in Sections 5 through 8 and will be investigated by an external investigator. External consultants must meet the guidelines of section 7.3 or be an HR consultant retained by Opera.ca.

12. COMPLAINTS AGAINST A DIRECTOR OF THE BOARD

If a complaint is being made against a director of the board, the individual making the complaint may request the Secretary-Treasurer bring the complaint to the attention of the Chair of the Opera.ca Board of Directors. This complaint will be processed by the Chair who will assume the duties and responsibilities of HARASSMENT OFFICER designated in Sections 5 through 8 and will be investigated by an external investigator. External consultants must meet the guidelines of section 7.3 or be an HR consultant retained by Opera.ca.

13. COMPLAINTS AGAINST THE CHAIR OR SECRETARY-TREASURER OF THE BOARD

If a complaint is being made against the Chair or the Secretary-Treasurer, the individual making the complaint may bring the complaint to the attention of the Executive Director or an external mediator who will assume the duties and responsibilities of the HARASSMENT OFFICER designated in Sections 5 through 8. If an investigation is required, it will be investigated by an external investigator. External consultants must meet the guidelines of section 7.3 or be an HR consultant retained by Opera.ca.

14. PRIVACY AND CONFIDENTIALITY

All parties to a harassment complaint are expected to respect the privacy and confidentiality of all other parties involved and to limit the discussion of a harassment complaint to those that need to know. Every attempt will be made to ensure the protection of personal information. It must be recognized that in certain situations, Opera.ca may need to provide some information to certain individuals to fulfill our responsibility to protect our workers. In all cases possible, the complainant will be informed of whom must be made aware of the situation and why.

15. LEGAL LIMITATIONS

Nothing in this Policy prevents a complainant or the accused from seeking legal advice or pursuing formal legal remedies or resolution through provincial and federal agencies or the courts.

16. REVIEW

Opera.ca will review this Policy and procedures on an annual basis, or as required, and will make necessary adjustments to ensure that it meets the needs of all workers.

17. ENQUIRIES

Enquiries about this Policy and related procedures can be made to any Harassment Officer.