

**Canada's Ballet Jörgen ("CBJ")
Respect and Safety in the Workplace Policy**

Approval Authority:	Board of Directors
Approval Date:	December 3, 2018

1.0 Purpose

This policy is intended to ensure that every member of the CBJ Community experiences and contributes to an understanding and respectful artistic work and teaching environment that is free from discrimination, harassment and workplace violence.

CBJ is headquartered in Toronto, ON, and travels throughout Canada and into the United States. As an Ontario-based organization, CBJ adheres to the Code and OHSAs as its foundational laws and guidance. The Code states that it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination. The Code aims to create a climate of understanding and mutual respect for the dignity and worth of each person so each person feels part of the community and feels able to contribute to the community.

This policy applies to all Workplaces in which the CBJ Community operates.

2.0 Definitions

In this policy, any capitalized or other terms have the meanings set out below.

Defined Term	Meaning
CBJ Community	<ul style="list-style-type: none"> • CBJ's dancers, teachers, managers, other administrative staff, and crew (whether employees or contractors) • invited artists • CBJ students • audiences of performances • youth participants in performances • suppliers of services/contractors (including local theatre crews) • volunteers, including Board and committee members • visitors to CBJ premises including parents¹.
Code	Ontario's <i>Human Rights Code</i> .
College	George Brown College.
Complainant	The individual bringing a complaint about possible discrimination or harassment – this can be the person experiencing discrimination, harassment or workplace

¹ CBJ's ability to compel audience members and visitors to participate in the investigative process, as Respondents, is limited. See Section 7.4.

Defined Term	Meaning
	violence, or a friend or witness.
Executive Manager	Defined in Section 6.5.2.
Family Status	The status of being in a parent-and-child relationship.
Gender Expression	How a person publicly presents their gender. This can include behaviour, outward appearance (e.g., dress, hair, make-up, body language or voice), chosen name and/or pronoun.
Gender Identity	Each person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation.
Harassment	Includes: <ul style="list-style-type: none"> • One or a series of vexatious comments or behaviours related to one or more of the Prohibited Grounds that are known, or might reasonably be known, to the person doing the harassing to be unwelcome, unwanted, offensive, intimidating, hostile or inappropriate • Unwanted and/or inappropriate comments or touching of a sexual nature
Investigator	Defined in Section 6.6.1.
Manager	The individual with whom a formal complaint is lodged, or their designate. The CBJ Managers include: <ul style="list-style-type: none"> • the Artistic Director and CEO • the General Manager • the Education Manager • the Board Chair.
Marital Status	The status of being married, single, widowed, divorced or separated, including the status of living with a person in a conjugal relationship outside marriage. It includes both same-sex and opposite-sex relationships.
OHSA	<i>Ontario's Occupational Health and Safety Act</i>
Prohibited Grounds	Defined in Section 5.1.
Respondent	The individual accused of the conduct that is a Prohibited Ground in the Code.
Workplace	Has a very broad definition and includes: Inside any CBJ workplace such as: <ul style="list-style-type: none"> • any place that CBJ undertakes performance, education or community outreach, whether in Toronto, in Canada or beyond

Defined Term	Meaning
	<ul style="list-style-type: none"> • travel, accommodation and touring between performance and education venues • accommodation and events for summer program students that are under CBJ supervision • CBJ administrative offices and meeting spaces. <p>Outside any CBJ workplace, where actions by or interactions between CBJ Community members may impact CBJ's reputation or CBJ's workplace, such as:</p> <ul style="list-style-type: none"> • social events attended by CBJ Community members • social media postings • when CBJ Community members serve as CBJ ambassadors in local communities.
Workplace Violence	<p>Workplace violence is defined in OHSAs as the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker. It also includes an:</p> <ul style="list-style-type: none"> • attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker; and a • statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker. <p>For the purposes of this policy, CBJ students are considered workers.</p>

3.0 Scope

3.1 Who?

This policy applies to all members of the CBJ Community engaged in CBJ-related work or operations, including without limitation teaching, performance, and travel.

CBJ will put all CBJ Community members on notice that they are required and expected to comply with CBJ's policies.

Contractors will be governed by a standard contract that will require contractors to comply with CBJ's policies, including cooperating in the complaints resolution process.

3.2 Where?

Given that CBJ is a touring classical ballet company, this policy specifically extends to all locations and premises in which the CBJ Community may work or teach, whether at the CBJ headquarters, at touring locations, and while travelling between locations. This policy also applies to CBJ-sponsored social functions.

Incidents of harassment, discrimination or workplace violence may occur in person, over the telephone, or through e-mail or other electronic or written communication, including text messaging or social media.

3.3 *Must be Connection to a Workplace*

CBJ recognizes that the CBJ Community members will socialize with each other outside of CBJ Workplaces. For this policy to apply to incidents of discrimination, harassment, or workplace violence that occur outside of a CBJ Workplace under CBJ oversight or supervision, the incident must have the potential to adversely affect an individual's ability to work or teach as part of the CBJ Community (such as incidents that suggest or demonstrate a repeated or systemic problem) or the ability to risk negatively impacting CBJ's reputation or image.

Incidents that occur outside of CBJ Workplaces and that have little or no likelihood of adversely affecting an individual's study or work environment at CBJ, or little or no likelihood of adversely affecting CBJ's reputation or image, should be pursued through external avenues of redress, such as processes established by courts or tribunals.

3.4 *Interaction with George Brown College*

George Brown College engages CBJ to teach the George Brown College Dance Program.

If a Complainant is subject to a George Brown College policy on this topic or similar subject matter, that policy will supersede this policy.

If George Brown College advises that the CBJ policy is the more appropriate avenue under which to pursue the complaint, CBJ will encourage the Complainant to follow CBJ's policy, in consultation with George Brown College as required.

4.0 Principles Governing the Application of this Policy

4.1 *CBJ's Commitment*

Work and teaching can best be accomplished in an environment of understanding and mutual respect for the dignity and rights of each and every individual. CBJ is committed to preventing discrimination, harassment and workplace violence as part of fostering a climate of inclusion, equal opportunity and mutual respect for all members of the CBJ Community.

CBJ will not tolerate discrimination, harassment or workplace violence in connection with its work and teaching functions.

CBJ is committed to dealing quickly, fairly and effectively with complaints under this policy. CBJ will safeguard the rights of the Complainant and the Respondent throughout the complaints resolution process.

When human rights intersect, CBJ will make every effort to recognize legitimate competing claims and reconcile them in a way that respects the rights of all of the individuals involved.

Managers will exhibit strong, visible, and ongoing commitment to preventing all forms of discrimination, harassment, and workplace violence.

CBJ will make Managers aware of their responsibilities under this policy and under the Code for creating and maintaining an environment free from discrimination, harassment, and workplace violence.

CBJ will maintain the confidentiality of all information relating to a complaint throughout the complaints resolution process, sharing only with those with a legitimate role in the investigative process, subject to where disclosure to a governmental authority may be required or may be advisable as permitted by law (e.g., in order to warn government authorities of a risk of harm posed by or to a particular individual). However, CBJ cannot guarantee complete confidentiality if a Complainant or a Respondent, regardless

of CBJ's direction on confidentiality, chooses not to adhere to the confidentiality conditions imposed by this policy.

No reprisals are permitted against anyone:

- making a good faith complaint or assisting or supporting a good faith complaint made under this policy, or
- enforcing this policy in good faith.

However, if a complaint is determined to be made in bad faith, the Complainant may be subject to discipline.

4.2 *Obligations of CBJ Community Members*

Each member of the CBJ Community is responsible for helping to create a work and teaching environment that is free of discrimination, harassment, and workplace violence by supporting this policy and co-operating in the resolution of complaints.

4.3 *Remedies under this Policy*

The objectives of any remedy proposed in response to a finding of discrimination, harassment, or workplace violence will be to:

- take a constructive approach whenever possible;
- clarify the expectations and understanding of the Complainant and the Respondent regarding the conduct of concern;
- mitigate the impact of the Respondent's conduct upon the Complainant;
- prevent further incidents of the conduct occurring between the Complainant and the Respondent and, where appropriate, within CBJ generally; and
- correct the behaviour of the Respondent, if appropriate. In some cases, termination of the Respondent's relationship with CBJ may be deemed necessary. In some cases, the incident and finding may be referred to external authorities.

4.4 *Human Rights Tribunal of Ontario/External Authorities*

Every individual has the right to seek assistance from the Human Rights Tribunal of Ontario or any other external governmental authority, whether or not the process outlined in this policy leads to internal resolution of incidents.

5.0 Policy

5.1 *Discrimination and Harassment Prohibited*

This policy prohibits discrimination and harassment based on the Prohibited Grounds defined in the Code:

- race
- ancestry
- place of origin
- colour

- ethnic origin
- citizenship
- creed
- sex
- sexual orientation
- gender identity
- gender expression
- age
- record of offences (applicable in employment only)
- marital status
- family status
- disability.

The Code prohibits discrimination that results from requirements, qualifications, or factors that may appear neutral but have an adverse or negative effect on people identified by Code grounds.

At the same time, the Code allows an organization to show that the requirement, qualification or factor is nevertheless “*reasonable and bona fide*” in the circumstances. However, to do this, the organization must show that the needs of the person cannot be accommodated without undue hardship.

This policy also prohibits sexual harassment, which includes unwanted and/or inappropriate comments or touching of a sexual nature in a CBJ Workplace.

5.2 Workplace Violence Prohibited

Workplace violence is unacceptable and will not be tolerated from any member of the CBJ Community in any CBJ Workplace.

CBJ will take all reasonable steps to protect members of the CBJ Community against workplace violence from all sources. Workplace violence procedures include:

- measures to protect workers from workplace violence;
- a means of summoning immediate assistance; and
- a process for workers to report incidents and raise concerns.

5.3 Retaliation, Reprisals or Threats of Reprisals Prohibited

This policy prohibits retaliation, reprisals or threats of reprisals against individuals who:

- are pursuing their rights under this policy;
- have participated or cooperated in a complaint resolution process;
- have been associated with someone who has pursued their rights under this policy or participated in a complaint resolution process; or
- have acted in any other role or capacity under this policy.

5.4 Upon Receipt of a Complaint

All Managers have a responsibility under the Code to act immediately on complaints that this policy has been violated.

Details about a complaint will only be made known to those involved in the process, and only to the extent needed to fulfill their role. If a Complainant does not wish for the complaint details to be shared, he/she may withdraw the complaint. Throughout the complaints resolution process, all documents, including contents of meetings, interviews and reports, will be securely maintained and stored by the Manager or Executive Manager on CBJ premises.

A Complainant will not be obliged to directly approach a Respondent at any stage of the complaints resolution process.

- Complainants should not directly approach Respondents if direct interaction may escalate the discrimination or harassment, or put the safety of either the Complainant or the Respondent at risk.
- Complainants may choose to not approach Respondents in situations where there may be power imbalances or where they fear reprisals.

5.5 Continuing Review

CBJ will continue to establish policies and procedures that clarify the responsibilities of all members of the CBJ Community. The Board will conduct regular reviews and revisions of this policy to ensure it:

- reflects current human rights laws;
- reflects current occupational health and safety laws relating to workplace violence;
- accounts for changes in CBJ organizational structures or resources;
- addresses new and developing human rights or health and safety issues that affect the CBJ Community; and
- continues to be effective.

5.6 Awareness

CBJ will take steps to make all members of the CBJ Community aware of this policy and its provisions by:

- offering educational opportunities and access to resources to increase awareness about issues of discrimination and harassment;
- providing training to Managers identified under this policy; and
- making the web link to this policy available to the CBJ Community on its website.

5.7 Awareness

6.0 Procedures

6.1 First Steps – Discrimination or Harassment

Any member of the CBJ Community who believes that they have been the subject of discrimination or harassment that falls within the policy is encouraged to bring this matter to the attention of the person apparently responsible for the conduct, advising the person that the conduct is unwelcome and ask the person to discontinue and/or not repeat the conduct. These individuals are also encouraged to keep a

written record of the nature of the discrimination or harassment, relevant dates, times and circumstances, and the names of any witnesses.

6.2 First Steps – Workplace Violence

Any member of the CBJ Community who believes that they have been the subject of workplace violence:

- should not attempt self-help;
- should as a first priority take all steps to ensure their safety, including summoning immediate assistance and/or leaving the area of potential harm; and
- must report the complaint under this policy as soon as possible.

6.3 Initiating the Complaints Resolution Process

6.3.1 Any member of the CBJ Community who believes that they have been the subject of, or may have witnessed, an incident of discrimination or harassment should report the incident to a Manager.

6.3.2 Any member of the CBJ Community who believes that they have been the subject of, or may have witnessed, an incident of workplace violence must report the incident to a Manager.

6.3.3 A Complainant may report to whichever Manager the Complainant feels most comfortable approaching. A Complainant may bring another person with them for support.

6.3.4 Alternatively, a Complainant may call or email the CBJ's tipline to report the complaint. If the complaint is anonymous, CBJ will investigate the complaint as best as possible without the assistance of the Complainant, but the ability to investigate the incident and reach a conclusion may be impaired.

6.3.5 Managers receiving a complaint must seek to resolve concerns under this policy, and may consult another Manager in seeking such resolution. If the Manager who is approached believes that he/she is not the appropriate person to process the complaint, he/she may refer the complaint to another Manager in consultation with the Complainant.

6.3.6 If the Complainant is subject to a George Brown College policy on the same subject matter, the Manager will provide guidance to the Complainant on how to make a complaint under that policy.

6.3.7 The Manager receiving a complaint will use this policy and external guidance (such as the Code and OHSA, as applicable) to determine whether an alleged incident falls under this policy.

- The Complainant has the burden of proving, on its face, a case of discrimination, harassment or workplace violence when the complaint is presented: e.g., for a complaint of discrimination, there must be sufficient evidence, at first appearance, that the harassment or discrimination was linked to a Prohibited Ground.
- The Respondent does not have the burden of disproving the incident.

6.3.8 In situations where a Complainant's rights appear to be competing with the rights of the Respondent, the Manager will make reference to the Ontario Human Rights Commission's *Policy on Competing Human Rights* (<http://www.ohrc.on.ca/en/policy-competing-human-rights>).

6.3.9 A Complainant should initiate a complaint as soon as is reasonable and is strongly encouraged to initiate the complaints resolution process no later than one (1) year from the date of the incident. The Manager receiving the complaint will consider whether extenuating circumstances

warrant permitting the complaints resolution process to be initiated later than the time frames described above. This consideration will include the length of time elapsed and the reason for the delay.

6.3.10 In situations where the Complainant feels threatened, the Manager may contact the police.

6.4 Step One: Informal Resolution

6.4.1 The Manager should discuss with the Complainant the types of informal resolution that may be appropriate to the situation, as long as the Complainant feels comfortable and safe in approaching the Respondent themselves or having the Manager do so.

6.4.2 The Manager will support the Complainant if the Complainant decides to approach the Respondent on an informal basis to identify the conduct of concern and explain to the Respondent that it is unwelcome.

6.4.3 The Complainant should allow the Respondent an opportunity to respond to the concern expressed, and should suggest how the concern might be resolved.

6.4.4 If the concern is resolved, the Complainant and Respondent should note the nature of the resolution and the date on which it occurred, and inform the Manager, who will note in the case file that the issue has been resolved informally, along with the date and time.

6.5 Step Two: Formal Complaint

6.5.1 A Complainant may lodge a formal complaint if circumstances are such that the Complainant cannot or does not choose to approach the Respondent for informal resolution; informal resolution does not resolve the conduct/behavior of concern; the conduct of concern is repeated; or the Complainant chooses this avenue for seeking resolution.

6.5.2 Upon the Manager receiving notice from the Complainant that they want to pursue a formal complaint, the Manager shall advise either the Chair of the Board (if the complaint relates to the Chief Executive Officer or the Education Manager) or the Chief Executive Officer (for all other complaints) (each, an "**Executive Manager**"). Notes regarding involving an Executive Manager: 1. If the original Manager who receives notice from the Complainant about a formal complaint is also an Executive Manager (e.g., if the complaint was made to the Chief Executive Officer or the Chair of the Board in the first instance), that Executive Manager shall advise the other Executive Manager of the formal complaint. 2. If the Chair of the Board is the applicable Executive Manager, he or she may designate another Board member to serve as the "**Executive Manager**" for the purposes of this policy, where appropriate (this designation could arise, for example, from time constraints or other unavailability or a perceived conflict of interest).

6.5.3 In order to ensure Board awareness about the effectiveness of this policy, each Manager shall advise the Chair of the Board of every formal complaint received and the nature of the complaint, using reasonable efforts to avoid disclosing the identity of the Complainant and the Respondent.

6.5.4 The Complainant must submit a signed, written complaint to the Manager. The complaint must include 1) the name of the Respondent, and 2) as full an account as possible of the conduct of concern including:

- a detailed description of the event(s) or situation;
- the date(s) and time(s) of the event(s) or situation;

- where the event(s) or situation happened with as much specificity as possible;
 - the names of witnesses, if any; and
 - any supporting documentation, such as email messages, as an attachment.
- 6.5.5 If the Complainant has a disability or another reason that prevents them from preparing the written statement independently, the Complainant may submit the complaint verbally, through an interpreter, or in any other format which meets their communicative needs. The Manager will arrange to provide the Complainant with assistance in preparing a written complaint upon request.
- 6.5.6 The Complainant may withdraw a formal complaint at any stage of the complaints resolution process by notifying the Manager in writing. CBJ may choose to continue to investigate the complaint at its discretion, in which case the withdrawing Complainant is not required to cooperate or assist with the investigation.
- 6.5.7 The Manager may dismiss any complaint, on notice to the Complainant, where the subject matter of the complaint falls outside the parameters of this policy.
- 6.5.8 The Manager may engage outside assistance to assist with processing the complaint, provided the outside assistance is engaged under terms of confidentiality.
- 6.5.9 The Manager will meet with the Complainant to:
- clarify any questions the Manager has with respect to the written complaint;
 - explore the remedy that the Complainant is seeking to resolve the complaint;
 - ensure that the Complainant has received a copy of this policy;
 - answer any questions the Complainant may have about this policy and its procedures; and
 - answer any questions the Complainant may have about related resources available to them at CBJ, or provide appropriate direction so the Complainant can secure answers to such questions.
- 6.5.10 The Manager must provide the Respondent with a copy of the signed, written complaint within 4 working days of receiving it, outlining the time frame in which the Respondent has to respond to the written complaint.
- 6.5.11 The Manager will meet with the Respondent to:
- ensure that the Respondent has received a copy of this policy;
 - advise the Respondent regarding the time frames for responding in accordance with this policy;
 - answer any questions the Respondent may have about this policy and its procedures; and
 - answer any questions the Respondent may have about resources available to them at CBJ, or provide appropriate direction so the Respondent can obtain answers to their questions.
- 6.5.12 The Respondent must submit a signed, written response to the Manager within 7 working days of receiving the complaint.
- 6.5.13 If the Respondent has a disability or another reason that prevents them from preparing the written response independently, the Respondent may submit the response verbally, through an

interpreter, or in any other format which meets their communicative needs. The Manager will arrange to provide the Respondent with assistance to put the response in writing within 4 working days of receiving it.

6.5.14 After receiving the signed response, the Manager will provide a copy of the response to the Complainant within 4 working days.

6.5.15 If appropriate to the complaint, the Manager may attempt to resolve the complaint through informal resolution without further investigation.

6.5.16 If the complaint is resolved, the Manager must:

- prepare a written statement setting out the terms of resolution to be signed by the Complainant, the Respondent and the Manager;
- provide copies of the signed statement to the Complainant and Respondent, with a copy to the applicable Executive Manager;
- file a copy with the records of the Complainant and Respondent.

6.6 Step Three: Investigation

6.6.1 If further investigation is required to resolve the complaint, the Manager must identify whether any conflict of interest or bias could prevent the Manager from conducting an objective investigation. If a conflict of interest or bias exists, the Manager must inform the applicable Executive Manager, who will designate an alternative investigator to conduct the investigation. The Manager or the designated alternative investigator will be referred to as the “**Investigator**”.

6.6.2 In investigating a complaint, the Investigator may:

- collect and review documents that may contain information relevant to the complaint;
- interview individuals, including witnesses, who may have information relevant to the complaint;
- conduct additional interviews with the Complainant or the Respondent; and
- take any other steps consistent with CBJ policy.

6.6.3 Investigations should be completed within 30 working days, subject to extenuating circumstances. The Manager may extend this time frame if it is deemed reasonably necessary, on notice to the Complainant and Respondent.

6.7 Step Four: Decision

6.7.1 The Manager must prepare a written decision within 4 working days that summarizes:

- the complaint;
- the response;
- the Manager’s conclusion about whether the complaint was 1) substantiated, 2) partially substantiated, 3) unsubstantiated, or 4) frivolous, vexatious or made in bad faith;
- the Manager’s recommended disciplinary action, if any, for consideration of the Executive Manager; and
- the reasons for the decision.

- 6.7.2 In making a decision, the Manager will consider:
- the complaint;
 - the response;
 - the results of meetings with the Complainant and Respondent;
 - the results of the investigation; and
 - the balance-of-probabilities legal test: Based on the evidence presented, is it more reasonable than not that discrimination or harassment took place?
- 6.7.3 The Manager will provide the Complainant, the Respondent and the applicable Executive Manager with a copy of the decision, including a notice about the parameters and process for initiating a review. The Manager will ensure a copy of the decision is filed with the records of the Complainant and the Respondent. CBJ will otherwise keep the decision confidential, unless disclosure is required by law, court order or other governmental authority.
- 6.8 *Review of the Decision***
- 6.8.1 The Complainant or Respondent, as applicable, may request a review of the complaints resolution process by the applicable Executive Manager or their designate on the following grounds:
- that the procedures outlined in this policy were not followed; or
 - that there were compelling or extraordinary circumstances that were not considered.
- 6.8.2 The Complainant or Respondent must request a review within 10 working days of receiving the copy of the decision. The request must include the reasons for requesting the review and evidence to support the request.
- 6.8.3 The applicable Executive Manager or their designate will review the decision with the Manager to identify whether there is evidence that:
- the procedures outlined in this policy were not followed;
 - procedural fairness was not demonstrated; or
 - compelling or extraordinary circumstances that were beyond the Complainant's and/or Respondent's control, and/or that could have had a bearing on the decision, and/or were not considered.
- 6.8.4 If evidence as outlined in Section 6.4.3 is identified, the applicable Executive Manager or their designate, in consultation with the Manager, will make amendments to the decision. If no evidence is identified, the decision will stand.
- 6.8.5 The applicable Executive Manager or their designate will provide a letter to the Complainant and Respondent that sets out the outcome of the review and informs both parties that the decision is final with no internal avenue for further review.

7.0 Legal Obligation to Prevent and Act on Complaints

7.1 *Disciplinary Action*

CBJ has an obligation to act on good faith complaints of discrimination, harassment or workplace violence. Only an Executive Manager may take disciplinary action under this policy.

If a complaint is determined to be made in bad faith (e.g., frivolous or vexatious), an Executive Manager may impose corrective measures or sanctions against the Complainant.

7.2 *Disciplinary Action Involving CBJ Dancers, Managers, Crew, Students or Volunteers*

Where disciplinary action resulting from a complaint under this policy is appropriate, the applicable Executive Manager will consult with the applicable Manager as to appropriate disciplinary action, up to and including termination of the relationship between CBJ and the individual.

7.3 *Disciplinary Action Involving Suppliers of Services/Contractors (including Invited Artists)*

If a supplier of service/contractor is found to have not complied with this policy or the Code, CBJ may 1) enter into discussions to remedy the current situation and future expectations, 2) impose penalties, 3) cancel the contract, or 4) bar the contractor from future contractual arrangements.

7.4 *Disciplinary Action Involving Visitors, Audience Members, Local Participants*

If a complaint of discrimination or harassment against a visitor, audience member or local participant is substantiated, CBJ cannot compel participation of these individuals in the investigation. CBJ will take appropriate action and apply appropriate remedies or sanctions, up to barring the individual from CBJ premises, performances, or functions.