

Respectful Workplace

Policy Statement

The Yukon Arts Centre Corporation (YACC or Arts Centre) is committed to providing a safe work environment for all its employees, volunteers, artists in residency, renters, partners, contractors (including artists), visitors and Board members free from discrimination, harassment, sexual harassment and workplace violence. The Arts Centre has a zero tolerance policy for any form of discrimination, harassment, or violence in the workplace, whereby any person found to have committed an act of harassment will face disciplinary and corrective action, up to and including:

- dismissal from employment (employees)
- withdrawal of appointment (Board members)
- services/privileges and lodging may be removed immediately (volunteers, partners, contractors (including artists), renters)
- prohibiting persons from entering any Arts Centre premises (visitors).

It is the responsibility of the Arts Centre to protect employees, volunteers, artists in residency, renters, partners, contractors (including artists), visitors and Board Members from an unsafe work environment in accordance with *Yukon Human Rights Act* and *Yukon Occupational Health and Safety Act and regulations* and to take all complaints seriously and treated with respect and confidentiality (unless otherwise agreed by the individual bringing forward a request for assistance, or as required by law). All complaints are investigated and no one will be victimised for making such a complaint. If it is determined that any person has knowingly made false statements regarding an allegation of discrimination, harassment or workplace violence, an investigation will be conducted by C.E.O., or their designate.

This policy has been developed to promote a respectful, healthy and well-functioning workspace, address disrespectful conduct in the workplace, affirm employee/individual and manager responsibility and accountability for workplace conduct and relationships; and build organizational capacity to manage conflict in a constructive and respectful way. This policy describes the complaint and the investigative process that is used for complaints filed by employees as well as complaints filed by other persons.

Scope of Policy

This policy applies to all YACC Board members, employees (permanent, term and casual), volunteers, artists in residency, renters, partners, contractors (including artists), and visitors.

This policy is applicable to workers on site at YACC, Old Fire Hall, Whitehorse Wharf, or any off-site YACC event. It further applies to all work-related matters at conferences, trade shows, work-related social events, and online.

Our Respectful Workplace Policy is not meant to stop free speech or to interfere with everyday interactions. However, what one person finds inoffensive, others may not. Usually, harassment can be easily distinguished from normal, mutually acceptable socializing. It is important to remember that it is the perception of the receiver that determines whether the potentially offensive message is acceptable or not, be it spoken, gestural, pictorial, or some other form of communication which may be deemed objectionable or unwelcome.

Employer Responsibility

YACC is committed to providing a safe workplace free from discrimination, harassment, sexualized harassment, or workplace violence. This commitment includes:

- providing information to all persons under the scope of this policy on what harassment, sexual harassment, discrimination, and workplace violence is, what their rights are, and how to report;
- fostering a discrimination and harassment-free environment and setting an example about appropriate workplace behaviour;
- taking all reports and instances of harassment seriously, immediately upon becoming aware of them, whether or not a formal complaint has been made;
- maintaining confidentiality of individuals reporting an incident (unless otherwise agreed by the individual bringing forward a request for assistance, or as required by law);
- providing appropriate assistance to any employee who is the victim of workplace violence, discrimination, harassment, or sexualized harassment. This may include approved time off work for counselling, reporting to RCMP and associated court needs, and workplace accommodations as certified by a medical doctor;
- completing hazard assessments with the Health and Safety Committee of the work environment (every 365 days), including reviewing health and safety inspection reports, incident reports, and other related reports. The hazard assessment will involve the following steps:
 1. Identifying hazards—the things that might harm someone.
 2. Assessing the risks—how likely hazards are to cause harm and how bad they could be.
 3. Controlling the risks—taking steps to prevent hazards from causing harm.
 4. Making sure workers understand and follow prevention measures that the employer has put in place. Providing training to workers on how to recognize hazards.
 5. Reassessing hazards regularly. (See OHS Regulations, 1.03.01(4).) Doing a hazard assessment can minimize or even eliminate the risk. Results of a hazard assessment can also help identify what prevention measures are needed to keep workplaces safe and make it easier to plan and document the prevention measures.

Manager/Full-time Paid Staff Member in Charge Responsibility

All managers are responsible for:

- understanding, complying and enforcing this policy;
- providing employees with a workplace that is free of harassment, discrimination and workplace violence;
- taking action to prevent harassment, discrimination and workplace violence from occurring including, but not limited to, identifying and intervening in inappropriate workplace behaviour as defined by this policy;
- demonstrating a willingness to discuss and address concerns with any employee regarding workplace behaviour;
- ensuring that retaliatory action is not taken against employees who initiate complaints or participate in investigations;
- communicating and enforcing procedures set out herein.

Employee/Individual Responsibility

All persons are responsible for:

- Treating others with respect and dignity in the workplace, and ensuring that their behaviour in the workplace is appropriate and conforms to the individual rights of all employees to a workplace free of harassment, violence and discrimination;
- Making their disapproval immediately known to any harasser or discriminator, if they feel comfortable doing so, and they perceive they have been harassed or discriminated against or if they have observed another employee being harassed or discriminated against or if they have observed any form of workplace violence;
- Promptly reporting violations to their immediate supervisor/manager and/or the C.E.O.;
- Cooperating with harassment investigations, training, and respecting confidentiality related to the investigation process.

Authority

The C.E.O. or designate will conduct all formal investigations, with the exception of complaints filed against the CEO or a Board member, and write a concluding report as outlined in this policy and will ensure the instigation of the investigations of all alleged harassment, discrimination or workplace violence complaints.

If the C.E.O. is the alleged offender, the complaint may be filed directly with the Chair of the YACC Board of Directors. An individual external to the organization shall be appointed by the Chair of the Board of Directors and shall investigate and provide an investigative report and recommendations to the Chair of the Board of Directors.

If a Board member is the alleged offender, an individual external to the organization shall be appointed by the Chair of the Board of Directors and shall investigate and provide an investigative report and recommendations to the Chair of the Board of Directors.

Confidentiality

Information concerning allegations of harassment, discrimination or workplace violence and any subsequent investigation including the name of the complainant and the circumstances related to the complaint will not be disclosed except where disclosure is necessary for the purposes of investigating the complaint or taking disciplinary action in relation to the complaint or is compelled by law.

Definitions

Abuse of Authority

Abuse of authority occurs when an individual uses their authority or position with its implicit power to undermine, sabotage or otherwise interfere with or influence the career of another employee or in the provision of goods and services to the public. This definition includes blatant acts of misuse of authority such as intimidation, threats, blackmail or coercion. However, abuse of authority does not include the legitimate exercise of individual supervisory powers and authority.

Discrimination

It is discrimination to treat any individual or group unfavourably on any of the following grounds:

- (a) ancestry, including colour and race;
- (b) national origin;
- (c) ethnic or linguistic background or origin;
- (d) religion or creed, or religious belief, religious association, or religious activity;
- (e) age;
- (f) sex, including pregnancy, and pregnancy related conditions;
- (f.01) gender identity or gender expression;
- (g) sexual orientation;
- (h) physical or mental disability;
- (i) criminal charges or criminal record;
- (j) political belief, political association, or political activity;
- (k) marital or family status;
- (l) source of income;
- (m) actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds listed in paragraphs (a) to (l).

Reasonable Cause: It is not discrimination if treatment is based on

- (a) reasonable requirements or qualifications for the employment;
- (b) a criminal record or criminal charges relevant to the employment;
- (c) sex, so as to respect the privacy of the people to whom accommodations or a service or facility is offered; or
- (d) other factors establishing reasonable cause for the discrimination.

Discrimination as outlined above is as defined in the *Yukon Human Rights Act*, with the exemptions and qualifications set out in sections 9, 10, 11 and 12 of that *Act*.

Workplace Harassment

Workplace harassment is generally understood as any objectionable comments or behaviours that we know, or should know, are likely unwelcome. This includes any inappropriate comments or objectionable behaviour relating to a worker's sex, sexual orientation, gender identity or gender expression. (See OHS Regulations, 1.02.)

Examples include sexual advances, bullying, insults, threats, inappropriate jokes or images, gossip, vandalism and isolation. These behaviours can be physically and psychologically harmful. Workplace harassment includes personal harassment and sexual harassment.

Personal Harassment

Personal harassment, including bullying, is any behaviour by any person that is directed at and is offensive to an employee or endangers and employee's job, undermines the performance of that job or threatens the economic livelihood of the employee.

Examples of personal harassment include, but are not limited, to:

1. Unwelcome remarks, slurs, jokes, taunts, or suggestions about a person's body, clothing, race, national or ethnic origin, religion or any of the protected grounds listed in the *Yukon Human Rights Act*, or any other personal characteristic.
2. Patronizing or condescending behavior such as continually making someone the brunt of practical jokes or sarcastic, belittling remarks that cause awkwardness or embarrassment in front of coworkers/volunteers/members of the public.
3. Ignoring, isolating or segregating a person or group.
4. Using cyberbullying, such as posting offensive or intimidating messages through social media or email.

Sexual and/or Sexualized Harassment

Sexual and sexualized harassment is comprised of offensive sexual comments, gestures or physical contact that a person knew or reasonably ought to have known would be deemed objectionable or offensive, either on a one-time basis or in a continuous series of incidents, however minor. Generally sexual harassment is behaviour of a sexual nature that is deliberate and unsolicited. Sexual harassment is coercive and one-sided and both males and females can be victims of it.

Sexual harassment is deliberate and unwelcome behaviour, and can be offensive sexualized comments, gestures or physical contact that are unwanted or offensive. It may also involve favours, promises of favours, advantages in return for giving in to sexualized advances or, the threat of revenge for refusing them.

Examples of sexual and sexualized harassment include, but are not limited to:

1. Displays of sexually explicit, sexist, racist or other offensive or derogatory material.
2. Pornographic, racist or offensive images which are displayed publicly, circulated, or put in someone's workspace or belongings, or on a computer or facsimile machine.
3. Unwanted physical contact ranging from touching, grabbing and pinching.
4. Unwelcome sexual remarks, slurs, jokes, taunts or other sexual suggestions about a person's sexual orientation, body or clothing.

Workplace Violence

Workplace violence is generally understood as the threatened, attempted or actual application of physical force toward a worker that is likely to cause harm or lead a worker to believe that they are likely to be harmed. (See OHS Regulations, 1.02.) Violence can cause physical and psychological injuries.

"Violence" means any of the following that occurs in a workplace or is work-related:

- (a) the threatened, attempted, or actual exercise of physical force by a person that causes, or is likely to cause, an injury to a worker; or
- (b) a threatening statement made or any conduct engaged in by a person that gives a worker reasonable cause to believe that the worker is at risk of injury.

Work-related violence can occur at off-site business-related functions (conferences, trade shows), at social events related to work, or away from work but resulting from work (a threatening telephone call to your home from a patron).

Example of workplace violence include, but are not limited to:

- Threatening behaviour – such as shaking fists, destroying property or throwing objects.
- Verbal or written threats – any expression of an intent to inflict harm.
- Verbal abuse – swearing, insults or condescending language.
- Physical attacks – hitting, shoving, pushing or kicking.
- Using physical or psychological bullying.

Domestic Violence

If YACC becomes aware, or ought reasonably to be aware, that an employee is or is likely to be exposed to domestic violence in the workplace, the employer must take reasonable precautions to protect the employee and any other persons in the workplace who are likely to be affected. (See OHS Regulations 19.05).

Examples of domestic violence include:

- Visible marks of bruising on face, neck, arms or other areas.

- Application of heavy eye makeup or other makeup in an attempt to cover up any bruising.
- Tearful, anxious and scared demeanor.

Procedures/Guidelines

Lodging A Complaint

1. An individual who lodges a harassment or discrimination or workplace violence complaint should do so immediately, and in any case, no later than 18 months from the alleged incident(s). A complaint form is attached to this policy.
2. An individual who lodges a harassment or discrimination complaint should provide the name of the harasser/discriminator, details of the incident(s) including dates, times, and places and any witnesses who observed or can substantiate the allegation(s).
3. Everyone involved in the complaint and the incident has a responsibility to participate in the investigation.
4. Managers who receive a harassment or discrimination complaint will advise the complainant that YACC takes harassment, discrimination and workplace violence complaints seriously and treats each complaint with sensitivity, discretion and confidentiality (to the extent possible).
5. Managers/full-time paid members in charge are to immediately report all harassment and discrimination complaints to their immediate supervisor/manager and/or the C.E.O. or designate.
6. To protect the complainant and to encourage the reporting of harassment, discrimination or workplace violence complaints, the following provisions will apply:
 - (a) all complaints will be handled with discretion and in as confidential a manner as possible;
 - (b) any form of retaliation or threats of reprisal against a complainant or a witness for taking part in an investigation are strictly prohibited and will result in disciplinary action up to, and including, termination of employment. In the case of contractors, renters, visitors and tenants, any services/privileges and lodging may be removed immediately; and
 - (c) a complaint will be promptly investigated. The objective is to complete the investigation and communicate the results to the complainant and the accused party within thirty (30) days of receipt of the complaint subject to the availability of all parties involved.

Investigation

1. A thorough and impartial investigation of the complaint will be conducted by the C.E.O. or designate. In some cases, an external investigator will complete the investigation. The investigator will have undertaken Workplace Investigation training and be competent to complete the investigation. The investigation will include an interview of the complainant, the accused party, relevant witnesses, and a review of any pertinent records.
2. The investigator's findings regarding the merits of the complaint, together with the appropriate recommendations regarding corrective action, will be communicated to the Chair of the YACC Board of Directors. The report will include:
 - the names of the investigator, complainant and respondent, as well as anyone else interviewed during the investigation
 - the date, time and place of the alleged incident
 - a description of the alleged incident
 - any relevant photographic evidence
 - the findings of the investigation with supporting facts for deciding what happened; and
 - any corrective actions to be taken or explanation why none are needed.
3. The C.E.O. or designate will make every effort to meet separately with the complainant and the respondent to review the findings as to whether the harassment or discrimination or workplace violence complaint has merit. These meetings will happen as soon as possible.
4. Where merit is found, the accused party will be informed in writing of the determination and the corrective action to be taken. The complainant will also be advised in writing that the findings showed there was merit to their complaint and that the appropriate corrective action has been taken. The accused party and the complainant will also be advised in writing if no merit is found.
5. Information gathered in the investigation will only be disclosed for the purpose of conducting the investigation or as required by law. Results of the investigation will not be filed in employee personnel files unless merit is found in the complaint.
6. Individuals who are not satisfied with the investigation/resolution process may bring the matter to the attention of the Chair of the YACC Board of Directors who will make a determination on any additional measures that may be required, if any. This policy and procedures do not limit an individual's rights under any other law, including human rights or criminal laws.

7. Bargaining unit employees, whether the complainant or the accused party, may choose to have union representation throughout the investigation process.
8. Frivolous or vexatious complaints will not be tolerated and those who file such a complaint, may be subject to discipline, up to and including termination of employment or services.

Policy Review

This policy is to be reviewed when an incident or complaint is filed and renewed on an annual basis by both YACC management and Safety Representatives. This review will take into account a review of any incidents or complaints that occurred during the preceding year. Recommendations of any changes to this policy will be submitted to the YACC Board of Directors for review and approval. If approved, the Board of Directors will pass a motion indicating it has agreed to the changes and adoption of the policy.

In areas where there is conflict between this policy and the collective agreement between YACC and the Public Service Alliance of Canada (PSAC), the collective agreement will be taken as the governing policy for bargaining unit employees only. However, in all cases legislation will prevail if the policy or the collective agreement do not meet the minimum requirements.

References/Links

Respectful in the Workplace Complaint Form

P.S.A.C. Collective Agreement

Yukon Human Rights Act https://yukonhumanrights.ca/documents/YHRA_current.pdf

Yukon Occupational Health & Safety Act and Regulations <https://yukonregs.ca/RegsPublic/> Yukon Violence and Harassment Prevention Regulation (effective Sept. 4, 2021)

http://www.gov.yk.ca/legislation/regs/oic2020_121.pdf

YWCHSB Workplace Violence and Harassment Prevention Guide

[file:///C:/Users/rmlar/OneDrive/Documents/Documents/Yukon%20Arts%20Centre/Workplace%20violence%20and%20harassment%20prevention%20guide%20\(1\).pdf](file:///C:/Users/rmlar/OneDrive/Documents/Documents/Yukon%20Arts%20Centre/Workplace%20violence%20and%20harassment%20prevention%20guide%20(1).pdf)[file:///C:/Users/rmlar/OneDrive/Documents/Documents/Yukon%20Arts%20Centre/Workplace%20violence%20and%20harassment%20prevention%20guide%20\(1\).pdf](file:///C:/Users/rmlar/OneDrive/Documents/Documents/Yukon%20Arts%20Centre/Workplace%20violence%20and%20harassment%20prevention%20guide%20(1).pdf)

Responsibilities

The Board of Directors will review and approve any changes related to this policy.

Administration will carry out the policy based on established procedures.