



Goh Ballet Academy and Youth Company Canada

00049

Name of Institution

Institution Number

Sexual Misconduct Policy

September 1, 2021

Name of Policy

Effective Date

Revision Date

1. Commitments

- 1.1 Goh Ballet Academy and Youth Company Canada is committed to the prevention of and appropriate response to sexual misconduct.
- 1.2 Goh Ballet Academy and Youth Company Canada recognizes that people’s experiences will be affected by factors such as their access to power and privilege including their sex, sexual identity or expression, racialization, age, family status, socio-economic status, class and language that may intersect or overlap. Goh Ballet Academy and Youth Company Canada also recognizes it is a unique environment in which power imbalances are systemic. These factors, along with an individual’s personal history, affect individual experiences of Sexual Misconduct, the ability to access supports, and choices with regard to recourse. Goh Ballet Academy and Youth Company Canada will take this into account when carrying out its responsibilities under this policy.
- 1.3 Goh Ballet Academy and Youth Company Canada is committed to creating a culture of consent and countering social attitudes about gender, sex, and sexuality that normalize Sexual Misconduct and undermine equality.
- 1.4 Goh Ballet Academy and Youth Company Canada is committed to reducing barriers to Disclosing and Reporting and to taking a Trauma-informed Approach when responding to and addressing Disclosures and Reports, and when conducting investigations. Goh Ballet Academy and Youth Company Canada will offer training options to persons, including administrative and artistic faculty, responsible for addressing Sexual Misconduct.
- 1.5 Goh Ballet Academy and Youth Company Canada is committed to respecting the rights of those who Disclose to make their own decisions about accessing support services and assistance, making a Report, or pursuing external processes such as criminal or civil action. It will provide assistance and resources to support services to members of the Goh Ballet Academy community who Disclose or Report Sexual Misconduct.
- 1.6 Goh Ballet Academy and Youth Company Canada is committed to procedural fairness and will respond to Reports, and will conduct Investigations, in a timely manner.
- 1.7 Goh Ballet Academy and Youth Company Canada recognizes that certain relationships between students and other members of the Goh Ballet Academy community are relationships of heightened trust and vulnerability. Sexual or intimate relationships between individuals in the following classes of members of the Goh Ballet community where there is a supervisory role or where an individual has influence over a student’s current or future ballet or artistic activities or career advancement are Prohibited Relationships:
 - (i) Faculty, or Guest Instructors, or Guest Artists and students
 - (ii) Staff and Students

An individual in a supervisory role or position of influence as described above who engaged in a Prohibited Relationship, except as provided in this Policy, breaches this Policy and will be subject to disciplinary action notwithstanding that the relationship is claimed to be consensual.

- 1.8 In circumstances where there is an existing consensual sexual or intimate relationship that pre-dates a Prohibited Relationship as described above, the relationship must be disclosed to the Business Manager who will take appropriate steps pursuant to Goh Ballet Academy and Youth Company Canada's conflict of interest and conflict of commitment policy.

2. Definitions

- 2.1 "Sexual Misconduct" refers to a spectrum of non-consensual sexual contact and behaviour including the following:
- sexual assault, which is any form of sexual touching or the threat, express or implied, of sexual touching without the individual's consent;
 - sexual exploitation, which is subjecting any individual to sexual activities without the consent of the individual and the distribution or recording of sexually explicit materials (including photographs, videos) of an individual to one or more individuals other than the individual in the photograph or recording without the consent of the individual or recording
 - sexual harassment, which is unwelcome conduct, by comment or gesture of a sexual nature that detrimentally affects the working, learning or living environment, or leads to adverse consequences for the individual directly subjected to the harassment;
 - stalking, which is the unwanted and/or repeated surveillance or contact by an individual or group toward another individual;
 - indecent exposure, which is exposing one's body to another individual either physically or electronically, or through any other means, for sexual purpose without the individual's consent, or coercing another individual to remove their clothing in order to expose their body for any reason;
 - voyeurism, which is non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing, or recording is done for a sexual purpose
- 2.2 "Consent" is the active, voluntary agreement to engage, and to continue to engage, in the sexual activity in question. Consent cannot be implied, which means it must be affirmatively given and cannot be assumed by an individual's silence or inaction.
The initiator of the sexual activity is responsible for obtaining consent for that sexual activity, and may be withdrawn by any party at any time during the sexual activity through words or actions, and if consent is withdrawn the sexual activity must stop.
Consent may only be applied to the specific sexual activity it was explicitly provided for – it is not transferable to any other activities, nor does historical occurrences of consent provide proof that consent has been given.
- 2.3 "Members of the Goh Ballet Academy Community" are individuals who fall under one or more of the following categories:
- (i) Students: defined as any person, including Adult Ballet, workshop or intensive students, registered or enrolled in any component of a Goh Ballet training program, masterclass, intensive or workshop.
 - (ii) Employees, defined as individuals employed by Goh Ballet Academy and Youth Company Canada, including full-time faculty and administrative staff
 - (iii) Faculty, defined as individuals contracted by Goh Ballet Academy and Youth Company Canada to teach on an hourly basis



- (iv) Guest Instructors, defined as individuals contracted by Goh Ballet Academy and Youth Company Canada to teach for a special masterclass, intensive, or workshop
- (v) Pianists, defined as individuals engaged by Goh Ballet Academy and Youth Company Canada to accompany ballet classes
- (vi) Any individual active in Goh Ballet Academy and Youth Company Canada's activities, including volunteers and vendors
- (vii) Anyone contractually obligated to comply with this Policy

2.4 "Disclose" or "Disclosure" is where an individual shares information with Goh Ballet Academy and Youth Company Canada about an incident or incidents in which the individual was subject to Sexual Misconduct.

2.5 "Report" or "Reporting" is providing a statement of allegations to the Business Manager about an incident or incidents of Sexual Misconduct.

2.6 "Investigation" is an investigation of allegations set out in a Report and carried out by Goh Ballet Academy and Youth Company Canada as set out in the Procedures of this policy.

2.7 "Investigator" is the individual appointed to investigate a Report under the Procedures to this Policy.

2.8 "Investigation Findings" is the written report submitted by the Investigator to the Director of the Academy.

2.9 "Trauma-Informed Approach" means understanding the impacts of sexual misconduct and sexualized violence on individuals and responding in a manner that promotes empowerment and recovery, and minimizes re-traumatization.

2.10 "Alternative Resolution Processes" are alternatives to an Investigation and may include, but are not limited to, facilitated dialogue or a restorative justice process.

3 Jurisdiction to Investigate

Goh Ballet Academy and Youth Company Canada's Jurisdiction to Investigate is determined and limited by the following:

- 3.1 the allegations must be against an individual who was a member of the Goh Ballet Academy and Youth Company Canada's community at the time of the alleged Sexual Misconduct and at the time the Report is submitted;
- 3.2 the alleged conduct must fall within the definitions of Sexual Misconduct; and
- 3.3 the alleged conduct must have occurred in a context that has a real and substantial connection to Goh Ballet Academy and Youth Company Canada. Whether a real and substantial connection to Goh Ballet Academy and Youth Company Canada exists will be considered on the particular circumstances of each Report.

4 Disclosures

4.1 Disclosures and the decision to Report are separate decisions. An individual may choose to lodge a Complaint and Disclose Sexual Misconduct without making a Report. Consequently, a Disclosure does not result in a



Report being made, and does not initiate an investigation or any further action by Goh Ballet Academy and Youth Company Canada.

- 4.2 Goh Ballet Academy and Youth Company Canada will provide appropriate resources and assistance available to members of the Goh Ballet Academy and Youth Company Canada on the basis of Disclosure, regardless of whether they decide to make a Report or whether Goh Ballet Academy and Youth Company Canada has the Jurisdiction to Investigate.
- 4.3 If a Disclosure is made to a Member of Goh Ballet and Youth Company Canada Community, that Member is encouraged to contact the Business Manager for support and information on how best to respond to the Disclosure and to support the individual making the Disclosure. Members of Goh Ballet and Youth Company Canada Community who receive a Disclosure are not expected to file a Report related to the Disclosure under section 4 of this Policy, although, at the request of the individual making the Disclosure, they may file a Report under section 9 of the Policy on behalf of the individual making the Disclosure if expressly requested by the individual to do so.
- 4.4 Except as provided in this policy, Goh Ballet Academy and Youth Company Canada will respect an individual's choice to not make a Report and where possible will keep the Disclosure confidential. In exceptional circumstances, where required by law or where, at the discretion of the Director, there is a risk of significant harm to anyone's health or safety, the Business Manager may notify third parties, such as the police or child protection services.
- 4.5 If the Business Manager receives more than one Disclosure from different individuals involving the same member of the Goh Ballet Academy and Youth Company Canada Community, the Business Manager may seek the consent of the individuals who made the Disclosure to make an Institutional Report based on the allegations of the Disclosures but without providing the names of the individuals making the Disclosures unless express consent is given.
- 4.6 Records of Disclosures will be kept strictly confidential by the Director's office, and access to those records will be limited to the Director and the Business Manager unless Goh Ballet Academy and Youth Company Canada is ordered to produce the records in a court proceeding or otherwise required by law.

5. Reports

- 5.1 Reports must be submitted to the Business Manager, where they will be addressed in accordance with the Procedures of this Policy, which include an initial review to determine whether the allegations contained in the Report fall within Goh Ballet Academy and Youth Company Canada's Jurisdiction to Investigate.
- 5.2 An individual can submit a Report to the Business Manager and also pursue other processes external to Goh Ballet Academy and Youth Company Canada against the individual alleged to have committed the Sexual Misconduct. These external processes may include reporting to the police or initiating a civil action (including a complaint under the BC Human Rights Code). These are separate processes and submitting a Report to the Business Manager does not result in a report to the police or the initiation of a civil action except as provided in section 4.3 of this Policy, where Goh Ballet Academy and Youth Company Canada may notify third parties, such as the police or child protection services.

6. Anonymous and Third Party Allegations

- 6.1 Members of the Goh Ballet Academy and Youth Company Canada who receive a Disclosure should follow the processes set out in section 4.3 of this Policy. Members of Goh Ballet and Youth Company Canada's Community are expected to honour the choices of the individual making the Disclosure and should not submit a Report that could interfere with the decision of the individual making the Disclosure
- 6.2 Individuals, other than the individual who was directed subjected to Sexual Misconduct or a Member of Goh Ballet Academy and Youth Company Canada's Community who have received a Disclosure, may submit a Report to the Business Manager or may anonymously advise the Business Manager of their allegations of Sexual Misconduct.
- 6.3 Goh Ballet Academy and Youth Company Canada may be unable to proceed with an Investigation based on anonymous or third-party allegations due to a lack of evidence or when proceeding would violate procedural fairness. In such cases, the Business Manager will consider whether any other steps can and should be taken.
 - a. Before determining whether to proceed with an Investigation based on anonymous or third-party allegations, the Business Manager will consult with the Director. The individual identified as having experienced the alleged Sexual Misconduct will be notified of the allegations and available support and options for response will be made available to the individual.
 - b. If Goh Ballet Academy and Youth Company Canada is unable to proceed with an Investigation based on anonymous or third-party allegations, the allegations will be retained by the Director's office. These allegations will be kept strictly confidential, and access to them will be limited to the Business Manager and the Director.

7. Conflicts of Interest

If the Director or the Business Manager has a real or apparent conflict of interest in an Investigation, or where there exists a reasonable apprehension of bias, that individual will not continue to be involved in the Investigation and Goh Ballet Academy and Youth Company Canada will appoint an appropriate individual to act in that role for the purposes of that Investigation

8. Policy Review

Goh Ballet Academy and Youth Company Canada is committed to reviewing this Policy at least once every three years, in consultation with students and other Members of Goh Ballet Academy and Youth Company Canada's Community at deemed appropriate.



PROCEDURES ASSOCIATED WITH THE SEXUAL MISCONDUCT POLICY

1. Submitting a Disclosure

Disclosures may be submitted verbally or in writing to the Business Manager or a Member of Goh Ballet Academy and Youth Company Canada Community. All Disclosures will be handled in accordance with Section 4 of the Principles section of this Policy.

2. Making a Report

Reports must be submitted in writing, and should set out the relevant details with regards to the alleged Sexual Misconduct. Reports should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Copies of relevant documents, including any social media, e-mail, or messenger-type application interactions (including, but not limited to, WhatsApp, WeChat, Google Hangout, Google Chat, Skype Messenger) should be provided with the Report.

3. Initial Review

Upon receipt of a Report, the Business Manager will conduct an initial review to determine if Goh Ballet Academy and Youth Company Canada has the Jurisdiction to Investigate. This review will occur within 7 calendar days of receiving a Report unless exceptional circumstances exist that prevent the Business Manager from meeting this timeline, in which case the Director will contact the individual making the Report as soon as possible to inform them of the revised timeline.

3.1 Goh Ballet Academy and Youth Company Canada – Jurisdiction to Investigate

- (a) If it is determined that Goh Ballet Academy and Youth Company Canada has Jurisdiction to Investigate, the individual direction subjected to the alleged Sexual Misconduct will be referred to as the Complainant in any subsequent processes, and the individual against whom the allegations have been made will be referred to as the Respondent.
- (b) If the Respondent has an employment or vendor relationship with Goh Ballet Academy and Youth Company Canada, the Business Manager will notify the Director who may make appropriate workplace arrangements required to ensure a fair investigation process.
- (c) Once Jurisdiction to Investigate is confirmed, the Business Manager will one of the following:
 - (i) Appoint an Investigator to Investigate the Report; or,
 - (ii) Refer the matter to an Alternative Resolution Process
- (d) Once the Investigation is opened, the Business Manager will:
 - (i) Notify the Complainant that the Report has been referred to an Investigator, and provide information about the resources available and the investigation process, including the Complainant's right to have an advisor, support person, or legal representation present during the meetings with the Investigator; and
 - (ii) Notify the Respondent that a Report has been made and has been referred to an Investigator, and provide a copy of the Report along with information about the resources available and the Investigation process, including the Respondent's right to have an advisor, support person or legal representation present during meetings with the Investigator.

3.2 No Jurisdiction to Investigate

If the Business Manager determines that Goh Ballet Academy and Youth Academy Canada does not have Jurisdiction to Investigate, the Business Manager will advise the individual making the Report and will provide reasons for the decision.



This reasoning will be provided in writing to both the individual making the Report and the Director.

3.3 Other Jurisdiction

If the Business Manager determines that the Report discloses other kinds of misconduct the Business Manager will refer the Report, or relevant portions of the Report to the Director. The Business Manager will discuss with the individual making the Report before referring the matter elsewhere.

4. **Alternative Resolution Processes**

A Complainant may request an Alternative Resolution Process instead of a formal Investigation. Alternative Resolution Processes may not be appropriate or available in all circumstances and will be determined as appropriate or available at the discretion of the Business Manager. If the Complainant and the Respondent agree to participate in the Alternative Resolution Process, the Business Manager will refer the matter to that process for resolution.

An Alternative Resolution Process will only be considered at the request of the Complainant and must be consented to by both the Complainant and the Respondent. If at any time during the Alternative Resolution Process either the Complainant or the Respondent no longer wishes to participate in said process, then with the consent of the Complainant, the Business Manager will appoint an Investigator to investigate the Report under Section 5 of these Procedures.

5. **Investigations**

Investigations will be completed within 60 calendar days of the Investigator's receipt of the Report from the Business Manager. If, during the course of the Investigation, the Investigator believes that this timeline cannot be met, the Investigator will contact the Complainant, the Respondent, and the Business Manager as soon as possible to inform them.

Investigations are not adversarial processes, and any kind of formal hearing will not be held as part of the investigatory process. Formal rules of evidence commonly associated with a civil or criminal trial will not be applied.

(a) Manner of Investigations

The Investigator may investigate in any manner deemed appropriate in order to obtain the information required to make the necessary factual findings. This may include but is not limited to:

- (i) Requesting a written response to the Report from the Respondent, that includes a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media, e-mail, or messenger-type application interactions (including, but not limited to, WhatsApp, WeChat, Google Hangout, Google Chat, Skype Messenger) should be provided with the Report.
- (ii) Meeting with or requesting further information from the Complainant
- (iii) Meeting with or requesting further information from the Respondent
- (iv) Meeting with or requesting further information from any other individuals who may have information relevant to the Investigation, including any witnesses identified by the Complainant or the Respondent; and
- (v) Obtaining any other evidence, including evidence of mitigating and aggravating circumstances, that may be relevant to the Investigation.

(b) Completion of Investigation

At the completion of the Investigation, the Investigator will provide a copy of the Investigation Findings to the Business Manager. The Investigation Findings will normally include the following information:

- (i) A synopsis of the evidence considered;
- (ii) Any assessment of credibility that is required to make factual findings or render a determination as to whether Sexual Misconduct has occurred;
- (iii) A description of any mitigating or aggravating factors; and,
- (iv) The factual findings, and a determination as to whether, on a balance of probabilities, Sexual Misconduct has occurred.

6. Outcome and Disciplinary Measures

- 6.1 The Investigator does not determine the outcome or disciplinary measures to be imposed in response to the Investigation Findings.
- 6.2 If the Investigation Findings includes a determination that Sexual Misconduct has occurred, the Business Manager will provide a copy of the Investigation Findings to the Director to make a final decision on outcome or disciplinary measures.
- 6.3 Once the Director has made a decision regarding the disciplinary or other measures to be imposed, that decision will be communicated in writing to the Respondent. A copy of the decision will also be provided to the Business Manager. The Business Manager will inform the Complainant of any disciplinary outcomes that the Director has the authority to disclose in accordance with section 7.5 of these Procedures.
- 6.4 Whether or not the Investigation Findings includes a determination that Sexual Misconduct has occurred, if the Business Manager is satisfied that the Investigation Findings disclose other misconduct, or information, that Goh Ballet Academy and Youth Company Canada may need to act on, the Director may refer the Investigation Findings, or the relevant portions of the Investigation Findings. The Director will notify the Respondent and, when appropriate, the person making the Report before referring it elsewhere.
- 6.5 The Business Manager will conclude the investigatory process by ensuring all necessary communications are made to those responsible for implementing decisions, providing or adjusting support services and assistance, providing education, or conducting administrative transactions.

7. Confidentiality and Privacy

- 7.1 In order to protect the integrity, fairness, and effectiveness of Investigations and to ensure compliance with the Freedom of Information and Protection of Privacy Act ("FIPPA"), all participants in an Investigation must act in accordance with the requirements set out below.
- 7.2 Individuals, including the Complainant and the Respondent, who have obtained information about an identifiable individual ("Personal Information") through their participation in an Investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law.

However, this section does not prevent:

- (a) any participants in the Investigation from disclosing information about themselves, or information that they have obtained outside the Investigation;
- (b) Goh Ballet Academy and Youth Company Canada representatives from disclosing Investigation-related information as authorized under section 7.3; or
- (c) Complainants and Respondents from disclosing the information that they have received under sections 7.4 and 7.5.

7.3 Goh Ballet Academy and Youth Company Canada will not disclose any Personal Information related to an Investigation except:

- (a) when expressly authorized by the affected individual;
- (b) to a Complainant, Respondent, witness, or other participant in the Investigation, if necessary for the conduct of the Investigation;
- (c) to a Complainant or Respondent in accordance with sections 7.4 and 7.5;
- (d) when authorized by the Board for compelling health or safety reasons;
- (e) when authorized by the Board to correct misleading or inaccurate information where disclosure is necessary to protect the integrity of the Investigation or Goh Ballet Academy and Youth Company's investigatory processes; or
- (f) when authorized or required under law.

7.4 To maintain the integrity of the Investigation process, Goh Ballet Academy and Youth Company Canada must ensure that both Complainants and Respondents know the Investigation findings and the evidence upon which these findings are based. Complainants and Respondents will be provided with a copy of the Investigation Findings. The FIPPA may require Goh Ballet Academy and Youth Company Canada to remove Personal Information that is irrelevant to the Investigation findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, each will only receive the portions of the Investigation Findings that are relevant to them.

7.5 Under the FIPPA, Goh Ballet Academy and Youth Company Canada is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized by the Board for compelling health or safety reasons including informing the Complainant of any restrictions that may have been imposed upon the Respondent's movements, activities, or contact with the Complainant.

7.6 Section 7.2 does not prevent Complainants and Respondents from disclosing the information received under sections 7.4 and 7.5. However, Complainants or Respondents who choose to disclose such information should keep in mind that the disclosure of such information may result in a legal claim being made against them by the other party or other individuals (including, for example, a defamation or breach of privacy claim), and may wish to seek advice before doing so.

8. Appeal Processes

8.1 Student Respondents may appeal any discipline that is imposed on them under these Procedures through the Director's Office

8.2 Staff or faculty may appeal any decision or discipline that is made or imposed on them under these Procedures through the Director's Office



This institution is certified by the Private Training Institutions Branch (PTIB). Certified institutions must comply with regulatory requirements, including the requirement to have a Sexual Misconduct policy. For more information about PTIB, go to www.privatetraininginstitutions.gov.bc.ca.