



Basic Dance Policy

PREAMBLE

The CADA/West **Basic Dance Policy** is a set of guidelines which identify the rights and responsibilities that both Engagers and Dance Artists share in working together. It complements the CADA/West **Basic Dance Contract** template document and is used to facilitate contract negotiations.

CADA/West provides the **Basic Dance Policy** at cadawest.org/programs/bda and takes no responsibility for working relationships that evolve as a result of using these guidelines. It is understood by the Engager and the Artist that there may be conditions and terms that are specific to the demands of a particular contract and that both parties are free to propose changes to the terms and conditions defined in this policy, towards a mutual agreement, and put into writing.

See CADA/West's **Fees & Rates Standards** document for recommended minimum rates of pay.

GLOSSARY

CADA/West uses the same glossary of terms as CADA-ON. Where ever possible, we have tried to include definitions of terms within this document, but defer to the CADA-ON Glossary document for clarification: cadaontario.camp8.org/psd_appendix_a_glossary

The term Dance Artist in this policy refers to Dancer and/or Choreographer, Dance Dramaturge and/or Rehearsal Director.

Dancer is an Artist who practices the art of dance and who offers his/her professional services as an interpreter, collaborator or performer in the field of dance.

Dramaturge is a theatre term and duties may include consulting the director, offering questions, research, textual analysis and attendance at rehearsals. The Dance Dramaturge works closely with the choreographer to support and advance the choreographic/creative process and can be called upon to document and write about the work for programs and other materials. The Dance Dramaturge will discuss with the choreographer the development of vocabulary, ideas and perspectives (including historic, cultural, social, political and aesthetic) and support their distillation and interpretation. Note: This term is increasingly used in the dance field; CADA/West understands this term to be consistent, but not necessarily the same, with roles named Outside Eye, Creative Consultant or Creative Facilitator, and in all cases recommends establishing clear expectations of role.

Emerging Artist is an artist who fulfills (f) and one other criteria of the Canadian Artist Code (see APPENDIX A at the end of this document. Note that the term may be defined differently by funders and others.)

An Employee works for an employer and deductions for EI, CPP and income tax are made from gross pay. The legal definition is:

“employee” includes,
a person, including a deceased person, receiving or entitled to wages for work performed for another,
a person an employer allows, directly or indirectly, to perform work normally performed by an employee,
a person being trained by an employer for an employer's business,
a person on leave from an employer, and
a person who has a right of recall.

Source: BC Employment Standards Act, labour.gov.bc.ca/esb/esaguide/glossary.htm
See also: work.alberta.ca/employment-standards.html for definitions in Alberta

This document often uses “Producer” or “Presenter”; it is often the case that a single person or entity will fulfill multiple roles. Dance Artists are often self-producers.

This document often uses “Engager”, referring to either an Employer or Contractor. Examples

include a dance company employing dancers, or an independent dance artist commissioning a choreographer. It is often the case that a dance company's staff consist of a single Dance Artist.

Note also that this document often uses "Engagee", referring to either an Employee or independent Contractee. Examples include a dancer employed by a dance company or a choreographer commissioned by an independent dance artist.

Dance Artists that are members of other professional unions and associations (ACTRA/UBCP, Canadian Actor's Equity, Union des artistes, or any other professional union) must defer to the rights and responsibilities of their membership with that association.

RIGHTS AND RESPONSIBILITIES

Section 1: Rights and Responsibilities of the Dancer

Overview: Dancer means a person who renders services as a performer in the field of dance, either exclusively or in combination with other forms of art, under the terms and conditions of this Agreement.

1.1 The Dancer agrees to be on time for rehearsals and costume fittings; to attend all rehearsals as laid out in the rehearsal schedule provided by the Producer; to appear at the venue on time for the show call; to abide by protocols of stage make-up and stage dress; to perform his/her services as reasonably directed and execute the choreography to the best of his/her ability under the direction of the Choreographer, Stage Manager, Rehearsal Director or Artistic Director; to learn his/her role within a reasonable time period set by the Choreographer or Producer; to properly care for his/her costume and props; to use, when required by the Presenter or Producer, safe electronic equipment and to respect the physical property of the Producer or Presenter and the venue.

1.2 The Dancer agrees to abide by all of the obligations in his/her contract and attached riders.

1.3 The Dancer is responsible for having warmed up for commencement of rehearsal unless otherwise negotiated and agreed upon in advance of the commencement of the engagement period.

1.4 Outside of rehearsal hours, the Dancer will be available for costume fittings, photo calls, publicity or video documentation given a minimum of 72 hours notice.

1.5 The Dancer will not present himself/herself during scheduled terms of work while intoxicated from alcohol or drugs.

1.6 The Dancer has the right to be kept informed and updated as to the Producer or Presenter's rehearsal dates and times, performance times and touring plans. The Dancer contracted by the Engager is not required to fulfill any additional roles (i.e. Company teacher, rehearsal director, administrator, publicity assistant, janitor, wardrobe, or any other duty) other than as a Dancer, unless otherwise agreed and specified in writing. The Dancer will not perform any additional duties that have been agreed to and specified in writing unless he/she negotiates additional compensation.

1.7 From time to time, the Dancer may be asked to participate in additional activities that benefit the production, festival or venue by providing increased exposure for the art form of dance, like artist pre and post-show talkbacks, private receptions and/or media interviews. These activities constitute part of the engagement and are not considered additional roles. All such activities should be openly communicated to the Dancer with at least 72 hours advanced notice.

1.8 The Dancer will provide his/her own basic make-up and undergarments (except those required as costume), standard rehearsal clothing and basic hair care. The Engager will provide all specialized make-up.

1.9 The Dancer may only be requested to use body make-up where suitable bathing facilities (hot and cold running water) are available at the venue.

1.10 Footwear that is additional to what the Dancer normally wears to train or rehearse will be provided by the Engager as rehearsal footwear and will be used only in rehearsals. Where special or specific footwear, satisfactory to the Dancer as to fit, quality and safety, is required or performance, such footwear will be provided by the Engager as costuming. The Dancer and Engager will define a mutually agreed upon time period during which the Dancer may rehearse in such footwear.

1.11 The Dancer has the right to a reasonably safe rehearsal time period for extraordinary costuming, footwear, masks, headdresses, wigs, jewelry, etc

1.12 A Dancer has the right to refuse to perform any act he/she deems unreasonable or unsafe.

1.13 During rehearsal and performance, necessary protection for the Dancer (i.e. knee pads, bandages, braces, ice etc) will be allowed, if required by the Dancer. The Dancer will inform the Engager at the earliest possible time if such protection is necessary.

1.14 The Dancer's requirement to attend classes and warm-ups will be determined and agreed upon by the Dancer and the Engager prior to the commencement of the engagement period.

1.15 The Dancer agrees to abide by all rules of the venue that are not in conflict with the provisions of the Agreement.

1.6 The Dancer is not liable for any costs if a Producer or Presenter declares bankruptcy.

Section 2: Rights and Responsibilities of the Choreographer

Overview: Choreographer means a Dance Artist who:

- creates an original work of choreography
- recreates his/her original work of choreography already performed by any company, dance artist or groups of dance artists
- creates a work which is a combination of the above

2.1 The Choreographer agrees to be on time for all scheduled rehearsals; respect the physical property of the Producer/Presenter and/or venue; conduct rehearsals in a respectful manner and to abide by artistic policies of the Producer or Presenter as specified in the contract. In

addition, the Choreographer agrees to make reasonable personal publicity appearances and participate in radio, television and press interviews for the purpose of promoting the production.

2.2 The Choreographer agrees to abide by all of the obligations in his/her contract and attached riders.

2.3 The Choreographer accepts the same rights and responsibilities as the Dancer in regards to 1-7, 10.

2.4 The Choreographer will terminate rehearsals at the designated time.

2.5 The Choreographer will not make demands on the Dancer that place the Dancer's health and welfare at risk.

2.6 The Choreographer is responsible for providing the Engager with information relating to time and resources required to complete their work. The Choreographer is obliged to meet schedules and budgets provided by the Engager and communicate with the Engager any variances in a timely manner.

2.7 The Choreographer will maintain rehearsal, production and performance schedules in conjunction with the Production team.

2.8 The Choreographer has the right to cast the Dancers who are suitable in fulfilling the specific needs of the production and will inform the Dancers of all casting and casting changes in a timely manner.

2.9 In the event of a re-mounting of the production, the Choreographer has the right to re-cast the dancers, as he/she deems fit, without regard to casting of the original production.

2.10 Other than an emergency change, the Choreographer will post any cast change during a performance season at least two (2) days in advance of the implementation of such change.

2.11 The Choreographer has the right to negotiate with the Engager the terms of payment of royalties and the licensing for the presentation of works choreographer by the Choreographer.

Section 3: Rights and Responsibilities of the Producer

Overview: A Producer is responsible for the production of a dance performance. A producer engages dance companies or independent artists to create or re-mount work.

3.1 The Producer agrees to provide the Dance Artist with a safe and sanitary working environment during production. The Producer will be responsible for all costs of the

production, unless otherwise negotiated and specified in the Agreement, and for the fulfillment of all legal and engagement obligations stated in his/her Agreement and all riders attached thereto.

3.2 A Dance Artist may fulfill the role of the Producer himself/herself, or, share responsibilities as Co-Producer. Whenever there are Co-Producers, specific responsibilities should be confirmed in a written letter of agreement or contract.

3.3 The Producer agrees to abide by all engagement obligations. The Producer will secure copyright permissions and licenses as required by the Choreographer and ensure that payments for royalties are directed to the appropriate individuals, unless otherwise negotiated and specified in the Agreement and/or confirm that the appropriate umbrella licences of presenters are in order.

3.4 The Producer will maintain the budget and have final approval of expenses incurred for the production.

3.5 The Producer maintain rehearsal, production and performance schedules in conjunction with the production team.

3.6 The Producer is responsible for publicizing the production as negotiated (when the Producer is working with a Presenter this responsibility may be that of the Presenter).

3.7 The Producer will obtain, or ensure that, adequate liability insurance is in place for the rehearsal and performance venues, including that required for outdoor performances or other alternative performance venue, unless otherwise negotiated and specified in the Agreement. The insurance will indemnify the Dance Artists from damages to the venue, other artists, members of the audience and the public at large.

3.8 The Producer in conjunction with the Choreographer will outline a detailed schedule of the number of hours required for each aspect of the production, including development, rehearsal, performance, workshops and other required work.

3.9 The Producer will outline a detailed schedule of the confirmed performance dates and possible or unconfirmed performance dates for the production team.

3.10 The Producer will obtain specific permits as required by provincial or municipal by-laws or confirm with the Presenter that they are in place (when applicable).

3.11 The Producer is solely responsible for all costs if the Producer declares bankruptcy.

3.12 When a Producer takes on the role of an Engager or Employer, appropriate measures must be in place for workers compensation coverage in the event of a workplace injury. See links below for provincial organizations that regulate this coverage: wcb.ab.ca | worksafebc.com/insurance/need_coverage/default.asp

Section 4: Rights and Responsibilities of the Presenter

Overview: A Presenter is an organization or person engaging companies or independent artists to offer programming to an audience. A presenter may or may not be specialized in dance. Presenters can be community-based not-for-profit organizations, facility presenters, dance-specialized presenters, school boards, universities, festivals or other.

4.1 The Presenter agrees to provide the Dance Artist with a safe and sanitary working environment subject to the health and safety standards applicable in the location of the performance. The Presenter is responsible for fulfillment of all legal and engagement obligations stated in his/her Agreement with the Producer and all the riders attached thereto. Please refer to the CanDance Network Code of Ethics for more information:
candance.ca/uploads/2/5/4/4/25448048/code_of_ethics_ratified_oct._17_09.pdf

Section 5: Environment/Working Conditions

5.1 A sprung wooden floor and/or Marley are considered appropriate for dance. The necessary traction and safety in relation to the nature of the work being rehearsed will be discussed with the Dance Artist and suitable adjustments in choreographic requirements and/or the use of protective apparatus and apparel will be made to facilitate working on other than a sprung wooden floor and/or Marley.

5.2 The rehearsal and performance areas will include proper flooring, good ventilation, adequate lighting, sanitary toilet facilities, hot and cold running water, adequate heat, accessibility to first aid equipment (including ice packs and tensor bandages) and a regularly maintained, clean, working environment.

5.3 The venue area temperature will be at or between a minimum of 18 degrees C and a maximum of 32 degrees C at all times.

i Air temperature: area air temperature will be within this above-stated range. Exceptions may be made for outdoor performances, however Dance Artists has the right to refuse to work without penalty if the area air temperature is not within the above-stated range.

ii Dance surface temperature: the dance surface temperature will be at or between a minimum of 6 degrees Celsius and a maximum of 36 degrees Celsius. The Producer/Presenter is responsible for providing a contact temperature with which to measure the dance surface temperature.

5.4 The Dance Artist has the right to request any additional protective equipment or measure he/she may deem necessary for his/her personal health and safety, including the rescheduling and or reprogramming of rehearsals and/or performances.

5.5 If the venue standards and conditions as outlined in the Agreement are not met and if the possibility exists of damage to his/her physical health and well-being, the Dance Artist has the right to refuse work and will still receive payment in full.

Section 6: Hours of Work and Terms of Engagement

6.1 Prior to the beginning of the engagement, the type of payment (e.g. hourly, weekly or flat rate) will be negotiated by the Engager and the Dance.

6.2 Prior to the beginning of the engagement, the frequency of pay will be negotiated by the Engager and the Dancer.

6.3 Any change or amendment to the Rehearsal Schedule or Performance Schedule will constitute an amendment to this Agreement, and is not binding on the Dancer unless such amendment is set out in writing, and signed by the both parties, and in the case of a change to a Performance Schedule, is delivered to the Dancer no less than one month before the first performance date.

6.4 In the case of a change to a Performance Schedule, otherwise in accordance with the terms of this Schedule, the Dancer may not withhold consent.

6.5 In respect of any change to a Rehearsal Schedule or any change to a Performance Schedule not in accordance with the terms of 6.3 above, the parties hereto agree to negotiate such amendment in good faith.

6.6 The parties acknowledge that the Dancer may, nonetheless, refuse consent to such amendment, where such amendment requires a commitment outside of the normal working hours of the Dancer, and involves a conflict with the Dancer's personal, professional or other contractual commitments, and such refusal of consent will not require a further reason and in no event will be the subject of further penalty or liability, including but not limited to termination or threat of termination. In the event that the parties execute an amendment to the original contract, and where such amendments result in reduced time or services required of the Dancer, the Amount Payable, as such term is defined herein, will not be reduced.

6.7 Regarding hours of work, where any Rehearsal exceeds 3 hours, the Engager and the Dancer shall arrange a schedule of meal breaks and/or rest breaks that best supports the health and safety of the Dancer as well as the most efficient use of available rehearsal time for the needs of the Engager. Such schedule is to be agreed upon prior to the commencement of the rehearsal and to incorporate the following requirements:

- (a) the Dancer shall not be required to work longer than 2 hours without a break;
- (b) a 4 hour work period shall include a MINIMUM of 15mins break time; and
- (c) a rehearsal day of 5 hours or more shall include a MINIMUM of ½ hr meal break that is distinct from other rests or breaks occurring during work hours;
- (d) a rehearsal day of 8 hours shall have a MINIMUM of 1hr break time, including the MINIMUM 1/2hr meal break.

6.8 Regarding duration of work, in no event will the Engager require the Dancer to provide services in excess of the hourly amounts enumerated below, such amounts include the

required break times as stated in Hours of Work Section above 6.7 (a-c):

(i) On non-performance days, the maximum amount of Rehearsal time and/or travel time on any single day is:

- (a) 8 hours when a minimum of 1.5 hours are designated to class or warm-up time
- (b) 8 hours when a minimum of 3 hours are used exclusively for a Staging Rehearsal; or
- (c) 8 hours when used wholly for travel. In the event of international tours, travel may exceed 8 hours. In such an event, particular attention shall be given to section 6 (5) (7) and (8).

(ii) On performance days, the maximum amount of Rehearsal time on any single day is

- (a) 2 hours; or
- (b) 3 hours when used exclusively for Staging Rehearsal.

6.9 The Engager, on performance days, will not establish or attempt to enforce a schedule where:

- (a) there is less than 2 hours between the end of the Rehearsal, and the start of the Performance;
- (b) the amount of travel time is in excess of 3 hours; and
- (c) there are any Rehearsals in addition to Staging Rehearsals.

6.10 When on Tour and traveling by motor vehicle, the Engager will allow the following rest requirements for the health of the Dancer:

- (a) a 15 minute rest period after every 3 hours of travel time; and
- (b) a MINIMUM 1/2 hour meal break in addition to above stated rest period when traveling for 5 hours or more.

6.11 The Engager will not schedule nor attempt to enforce a schedule where there is a full rehearsal on days involving more than one Performance.

6.12 The Engager will not schedule nor attempt to enforce a call for the Dancers where there is less than 12 hours provided between the end of one day's call and the beginning of the next day's call.

6.13 The Engager will not schedule nor attempt to enforce a schedule that does not provide, a minimum of 1 free day in each one-week period.

6.14 The Engager will not schedule nor attempt to enforce a schedule where there are in excess of 8 full-length Performances, for each one-week period.

6.15 The Engager will not schedule nor attempt to enforce a schedule where there are in excess of 10 Educational Engagements for each one-week period, and in excess of:

- (a) 2 Educational Engagements per day where there is a Venue change; and
- (b) 3 Educational Engagements per day where there is no Venue change.

6.16 Call time for ongoing engagement rehearsals and also sporadic rehearsals.

6.17 Warm up calls for performance will be determined in agreement between the

Producer/Presenter, the Choreographer and the Dancer according to the needs of the performance.

Section 7: Overtime

1. Notwithstanding section 6 (1) - (17) of this Schedule, where the Engager schedules time or services of the Dancer, that result in the hours of work exceeding the maximums allowed under section 6 (1)- (17) of this Schedule, or any other infringement of sections 6 (1)- (11) of this Schedule, the Dancer will be compensated for each hour or part thereof (on a pro rata basis) in excess of the minimums established in section 6 (1) – (17) of this Schedule:

(a) at a rate of 150% of the Dancer's hourly or pro rata rate for any excess hours or portion thereof; or

(b) at the Dancer's hourly or pro rata rate with a provision of compensatory time off prior to the end of the Engagement.

2. Notwithstanding section 8 of this Schedule, the Dancer and Engager may agree to negotiate in good faith any reasonable schedule that requires the Dancer to provide time or services in excess of the maximums provided under section 8 of this Schedule, but in no event will the Engager require, request or allow, directly or indirectly, the Dancer to work excessive hours or hours detrimental to his/her health or safety.

Section 8: Payment Protocols

1. Suggested minimum hourly rates do not preclude the Dance Artist from negotiating higher than these rates.

2. The Engager and Engagee should be aware when working on an hourly basis that the standard practice is a minimum 2-hour call. This means that should an Engager choose to work less than 2 hours, he or she must pay Engagee for no less than 2 hours.

3. Should the Engager choose to work more than 2 hours but less than the contracted number of hours for the activity, the Engagee shall be paid for the number of hours originally contracted.

See CADA/West's [Fees & Rates Standards](#) document for recommended minimum rates of pay.

(A) Weekly Rates

1. Suggested minimum weekly rates do not preclude the Dance Artist from negotiating higher than these rates.

2. An Engagee contracted for 20 or more hours per week of rehearsals may be paid a weekly,

rather than an hourly rate. A weekly rate means that the Engager and Engagee have agreed upon a determined number of work hours and a set rate of pay per week.

3. Should an Engager choose to work less than the contracted number of hours in the week, the Engagee is still paid the weekly rate originally negotiated.

4. Should an Engager choose to work more than the contracted number of hours in the week, the rate for extra hours should be negotiated and paid out to the Engagee in addition to the weekly rate.

5. Should the Engagee be required to work in excess of 30 hours in a week, overtime will be in effect (see 4.1.4).

6. During an agreement where the Engagee is paid a weekly fee, the Engager will provide space and/or training as part of paid time for the purposes of the Engagee's required rehearsal preparation.

See CADA/West's Fees & Rates Standards document for recommended minimum rates of pay.

(B) Flat Rates

1. A flat fee may be negotiated and agreed upon by the Engager and Engagee. A flat fee remains subject to the provisions of 4.1 Terms of Engagement.

2. A flat fee Agreement covers any single work period that may include one or more of the following: choreographic development, rehearsal, performance, workshops remounting existing work, technical and dress rehearsals.

See CADA/West's Fees & Rates Standards document for recommended minimum rates of pay.

(C) Rates for Exclusivity

1. Exclusivity requires that the Engagee does not work for another Engager on another activity during the agreement period. To request exclusivity, the Engager should provide a work week with a maximum of 36.25 and pay the Dancer on a per week basis.

2. Payment under an exclusivity contract, when divided by the total number of hours for Rehearsals and Performances per week, will not result in the Dancer receiving less than the minimum hourly rate as set out in Sections 4 through 6.

3. Where an Engager requires the exclusive right to an Engagee, the Engagee cannot expect his/her requests to adjust the rehearsal, technical or performance schedule to be honoured.

See CADA/West's Fees & Rates Standards document for recommended minimum rates of pay.

Note: It is not recommended that an exclusive Agreement be agreed to when payment is less frequent than weekly or bi-weekly as there is little remedy for non-payment.

(D) Rates for Compensation for Other Activities

1. Even if the Engager does not anticipate activities such as costume fittings, publicity photo shoots, fundraisers, teaching, Q & A's with the public or receptions, an hourly rate for the Engagee for this type of activity will be negotiated and included in the Agreement.
2. The rate of pay for this type of activity should be the same as the rehearsal rate.

Section 9: Notice of Termination

1. No Dancer will be terminated by the Engager for any reason whatsoever, within the period that begins two months in advance of the engagement (the "Required Notice Period"), without provision of the minimum notice periods as outlined below:

(a) In the event of a proposed cancellation after the Commencement of the Required Notice Period, but before the beginning of the Engagement, with the provision of the equivalent of one (1) weeks pay in lieu of notice; or

(b) After the start of the Engagement, two (2) weeks pay in lieu of notice.

2. Except where a dancer is entitled to terminate a dance agreement under s. 8 of this Schedule, no Dancer will terminate a dance agreement with an Engager within the period that begins one month in advance of the engagement (the "Dancer Notice Period"), without provision of the minimum notice periods as outlined below:

(a) In the event of a proposed cancellation after the Commencement of the Dancer Notice Period, but before the beginning of the Engagement, with the provision of the equivalent of one half (1/2) weeks pay in lieu of notice; or

(b) After the start of the Engagement, one (1) weeks pay in lieu of notice.

Section 10: Force Majeure

1. In the event that the Engagement is delayed, suspended or interrupted by either the Dancer or the Engager, where such delay, failure, loss or damage is caused, whether directly or indirectly, by an occurrence beyond the reasonable control of such party and for which the exercise of reasonable diligence by either party would not have prevented such delay, interruption, or suspension, including but not limited to:

(a) illness, injury or accident to the Dancer;

(b) delay of transportation services, accident to means of transportation, riots, strikes, epidemics, acts of God; and

(c) compliance with any act, regulation, order or request of any governmental authority or agency (collectively, (the "Suspension Event(s)")) then the existence of such Suspension Event, will

not form the basis for an allegation of a breach of this Agreement, and the existence of such Suspension Events will not entitle either party to sue or bring an action of any kind whatsoever, or be liable, as the case may be, for loss or damages in relation to such Suspension Event.

2. Should the Dancer be obliged to terminate this Agreement due to illness, injury or pregnancy, or due to extenuating circumstances arising from the illness, injury or death of a member of his/her immediate family, the Dancer will notify the Engager of such extenuating circumstance with all reasonable haste. The Dancer will not suffer any penalty or liability as a result of such extenuating circumstance, and must be paid for all services rendered and time worked; however, the Dancer will not be entitled to payment for any portion of the Engagement that he/she is unable or unavailable to work.

Section 11: Royalties

11.1 When a dance is re-mounted after its original production and presentation, royalties must be paid to the choreographer for performance, unless some other agreement has previously been negotiated. It is the responsibility of the Producer to ensure that the necessary permissions and agreements are in place (see 3.3)

11.2 Royalty fees pertain to the rights of mounting the work, and are negotiated outside of the original choreography fee; they are based upon the length of the work and are paid out per performance. 1% - 10% of the original fee paid for the work

11.3 Ownership: Any contract engaging the services of a choreographer must clearly stipulate which party has the rights to the completed work. Here are some examples of typical royalty negotiations:

(a) Work created by the choreographer is the property of the Engager who retains the right to remount at any time.

(b) Work created by the choreographer is the property of the choreographer who retains the right to remount or license the work to another party.

(c) Work created by the choreographer is the property of the Engager for a negotiated period of time and the right remains with the choreographer to remount or license the work to another party.

11.4 Legislation: Copyright in Canada is governed by federal legislation called the Copyright Act. At the time of writing, Copyright Act C-42 is in effect and Bill C-32, the Copyright Modernization Act is before the House of Commons. The Copyright Act organizes works into four categories: literary, dramatic, musical and artistic. "Choreographic works" are included in the dramatic category.

Under the Copyright Act, exclusive rights are given to the copyright holder(s) for the right to perform the work (including excerpts of the work), reproduction of the work in any medium, distribution of the work and to create derivatives (any work that is derived from your work).

Copyright generally lasts for 50 years after the death of the author, after which time it is in “the public domain”.

Copyright law is the same throughout Canada and does not vary from province to province. Copyright is protected in over a hundred countries through means of international copyright treaties.

Legislation is often clarified through experience and precedents established in courts through litigation, resulting in “case law”. There is little case law around choreography, no doubt because there is so little money involved. Artists may value originality or the concept of individual voice, however, these are not really monetized concepts; copyright is driven more by the concept of revenues that can be generated by performances or copying.

In cases of collaborative creation, copyright would usually be shared. Write the agreement down and specify percentage ownership in the work. (You may find it useful to consult the Playwrights Guild of Canada document included in the Resource section.) In cases where Dancers/Interpreters have contributed to the creation of choreography through improvisation or other means, usually they would not be considered co-choreographers, however, their contribution should be acknowledged in writing in program credits. Be mindful that the level of contribution and co-creation can be difficult to quantify and can change during production. (Authorship has been contested by dancer/contributors years after creation of a work.)

When commissioning a choreographic work, either the commissioner or the choreographer could legally own the copyright. Be clear about this in the contract. In general, CADA/West supports choreographers always owning copyright to their work.

11.5 How is choreographic copyright established?: A work must be capable of being copyright-protected; capable means more than an idea, it’s an expression of that idea. It must also be a new work. The work must be expressed in physical form and be fixated, or recorded. It is harder to think of fixation in an ephemeral form such as dance than in literary forms, however, videotaping is a way to fixate as is notating. Your copyright exists the moment your work is fixated in some way.

You don’t have to register your copyright for it to exist. However, proving your copyright is another thing, therefore, registering copyright can be a good idea. An inexpensive and helpful way of establishing your copyright is by mailing a copy of the work to yourself by registered mail. This is commonly referred to as the “layperson’s copyright”. Mail yourself a video of the dance you have choreographed and don’t open the mail when you get it! An even better way to protect your work is to register it with the Canadian government through the Canadian Intellectual Property Office. The cost is \$50.

To qualify for registration, the author must be a Canadian citizen or a person ordinarily resident in Canada, or a citizen or subject of or a person ordinarily resident in a country with which Canada has entered into a copyright treaty.

11.6 Author vs. Owner: There is a difference between the author and owner of copyright. (We have already referred to the fact that a commissioner could be the copyright owner.) The author never changes; the owner can change. When a contract stipulates that the choreographic work be deemed, “Work made in the course of employment” (Canadian) or, “work made for hire” (U.S. equivalent), be aware that you are selling your copyright because work made as an employee in the course of employment is owned by the employer. For example, if you are a dance teacher employed by a school board, when you leave the particular school where you choreographed a series of dances, the board is the owner of the dances, not you – unless you have attended to your copyright by specifying your ownership in a contract. You are the author but not the owner in this example.

Keep in mind that in the Canadian professional dance community, employment is actually quite rare and self-employment is more often the norm. As discussed in other parts of this publication, know your employment status.

If you sell your copyright, you should receive significantly higher payment for your choreography than if you retain your copyright and license the use of the work. This is because you are forgoing any opportunity to generate revenue by licensing the work in the future (be aware that if you choose to sell your copyright, technically you are opening yourself to claims against you that you are infringing copyright should you make a subsequent work based on the work sold. You could be sued for self-plagiarism!).

Even in situations where you as a choreographer sell the copyright, as the author you retain moral rights. Exercising one's moral rights requires the author's approval before the work can be changed and used in association with a product or cause without the author's permission. The law prevents the selling of moral rights, however, to get around this, contracts sometimes require that moral rights be waived.

11.7 Copyright Ownership & Dance Companies: Given the above information regarding employment, where does that leave choreographers working within dance companies? Technically speaking, the dance company could own the copyright for choreography made by its Artistic Director (when she/he is an employee) or any employed choreographer. Clarify this. Practice usually is that copyright resides with the choreographer and not the company, so that if the choreographer leaves, they can take their work with them. This requires clarification either in the form of a written Board policy or contractual agreement. Even in cases where companies contract self-employed artists as opposed to employing artists, it is a good practice to clarify who owns the choreographic copyright.

Section 12: Program & Credits

1. The Engager hereby agrees that any film or videotape of a Performance or Rehearsal, whatever its intended purpose or use, and all related documentation and promotional materials will give credit by name to the Dancer as a performer.
2. The Dancer hereby agrees to provide a photograph and a biography – stating CADA/West membership if applicable - by the date specified by the Engager for purposes of printing programs and marketing requirements.
3. The Engager hereby agrees that any printed programs distributed to the audience, posters and other promotional materials will list the name of the Dancer as a performer. Where an error, omission or casting change occurs that affects the Dancer's role or credit, an announcement of the correction or change will be made to the audience immediately prior to the start of the Performance and all necessary corrections will be made in the next printing of such materials.
4. The Engager hereby agrees that any photographs contained in any printed programs, posters and other promotional materials in which the Dancer's image appears will identify the Dancer by name.
5. The Engager hereby acknowledges that the Dancer is entitled to review all biographical information prior to its printing, subject to the provision that the Dancer will return any proofs, with corrections, to the Engager no later than 24 hours of receiving them.
6. The Engager hereby acknowledges that the Dancer will not be responsible for any expenses related to publicity appearances arranged for or requested by the Engager.

Section 13: Publicity/Documentary Photographs & Video Footage

1. The Engager will disclose in advance any requirements of the Engagee to participate in photo shoots and/or filming or video tapings.
2. The use of photographs, film or video footage will be negotiated and included in the Agreement.

Note: See Section 8(D) Rates for Compensation for Other Activities, Section 14 (2) a. i-v Rate for Archival or Publicity Photography and the CADA/West Fees and Rates document for information about Rates for Commercial Photography.

3. Such photographs, film or videotapes are the legal property of the Engager and the Engager will use them at his/her discretion.

4. The Engagee may request that these materials be updated once the period of engagement is over.

Section 14: Film & Video

1. Broadcast/Distribution: Subject to the terms of paragraph 9 (2) and 9 (3) of this Schedule, where a Performance or Rehearsal is filmed or videotaped for broadcast, telecommunication or distribution purposes, including sales, rentals and theatrical releases, the Dancer will be paid an additional fee of no less than 100% in addition to the Dancer's contracted hourly or pro rata rate. Upon full and proper payment to the Dancer, the Engager will be licensed to exploit, or distribute such videotaped Performance or Rehearsal without limitation as to term, territory or use, subject only to the requirement that ultimate Engager of such videotaped Performance or Rehearsal, will be required to secure whatever additional waivers or releases of intellectual property rights as may be required to be secured from the Dancers in relation to the planned use of the videotaped Performance or Rehearsal, and the Dancer hereby agrees to not unreasonably withhold such waivers or releases.

2. Archival/Promotional: Where a Performance or Rehearsal is filmed or videotaped for archival or promotional purposes, including grant applications, the Dancer will receive no additional payment. In addition, a maximum of 2 minutes of any filmed or videotaped Performance or Rehearsal may be broadcast as part of a news report program without additional payment to the Dancer.

(a) Recorded performance or rehearsal, or production photographs (promotional material), may be presented on the Engager's website, or used for other promotional purposes without additional payment to the artist on the following conditions:

- (i) The Engager uses their best efforts to ensure that the material cannot be downloaded, including but not limited to streaming video material;
- (ii) The Engager does not receive any revenue for the use of the material;
- (iii) Any Artist appearing in a principal or soloist role, or appearing in footage that features six (6) or less Artists, shall have the right of approval over the use of the material for this specific purpose;
- (iv) The names of all Artists shall appear on the website alongside the material;
- (v) The Engager warrants that they are responsible for any misuse of the material.

3. Production Component: Where a Rehearsal is filmed or videotaped for the purpose of incorporating the exhibition of such film or videotape into the Performance, the Dancer will receive no additional payment.

4. This section will not be construed as an assignment or waiver of any right or interest held by the Dancer in relation to that filmed or videotaped Performance or Rehearsal. Furthermore, this section will not be construed as superseding any applicable statute, regulation or collective agreement.

Section 15: Health & Safety

1. **Workers' Compensation:** The Engager agrees to accept and comply with, in connection to the Engagement, all and any employer obligations under applicable workers' compensation and occupational health and safety laws.

2. **Absence due to Injury or Illness:**

(a) **Sick Leave:** Where an Engagement requires Rehearsals and/or Performances totalling 25 hours or more within a one-week period and for where the Dancer is paid on a weekly or flat fee basis, the Dancer is entitled to up to 4 hours leave from Rehearsal time per week for reasons of illness or injury without any penalty or liability, and in no event whatsoever will reasonable exercise of the Dancer's rights under this paragraph 8(1) of this Schedule, be grounds for termination of the Dancer by the Engager. The Dancer shall make every reasonable effort to schedule medical, dental or physical therapy appointments outside of Rehearsal time.

(b) **Bereavement Leave:** The Dancer will be entitled to up to 3 days unpaid leave on the death of a member of the Dancer's immediate family without any penalty or liability, and in no event whatsoever will reasonable exercise of the Dancer's rights under this paragraph 8(2) of this Schedule, be grounds for termination of the Dancer by the Engager.

(c) **Notice:** When unable to attend a Rehearsal or Performance for any reason recognised under this section, the Dancer shall notify the Producer as soon as possible prior to call time.

(d) The leaves recognised under this section are not cumulative over the length of the Engagement and, if not taken by the Dancer, have no cash value at the end of the Engagement.

Section 16: Touring

1. With respect to a Tour or any other traveling outside the Production's home city that is required of the Dancer hereunder, the Engager agrees to provide the Dancer with:

(a) suitable and safe transportation both from the designated pickup point and to and from each Venue, or sufficient payment in lieu thereof. Vehicles provided by the Engager for extended road tours, shall have a daily "safety check list" prior to each days departure;

(b) suitable accommodations for each evening away from the home city, or sufficient payment in lieu thereof.

(c) a per diem of not less than \$45.00 for each day away from the home city and within Canada, including traveling days, and

(d) a per diem of not less than the current applicable rate set by External Affairs (Canada) for each day away from the home city and outside of Canada, including traveling days.

2. The Engager will provide the Dancer with 2 copies of the tour itinerary at least 24 hours prior to departure from the designated pickup point.

3. In the event that the Dancer wishes to make alternative arrangements for transportation or accommodations for reasons other than suitability or safety, the Dancer will notify the Engager in writing at least 24 hours prior to departure, acknowledging that the Engager will not be liable for any costs associated with such arrangements and accepting full responsibility

for following the tour itinerary.

4. The Engager will ensure that any vehicle that is rented or provided by the Engager for the transportation of the Dancer shall have a safety check list that shall be filled out prior to each days' departure, including the following minimum requirements:

- (a) tire pressure within standard range for vehicle;
- (b) availability of settles matches proposed passengers;
- (c) proper function of all external vehicle lights (headlights, indicators, break lights, running lights);
- (d) weight distribution of cargo and passengers falls within the vehicles' safety limits; and
- (e) condition of vehicle body, fenders and windows.

Working Abroad (visas and permits, and contracts in another language, health and safety)

(A) Visas and permits

Travel and work document requirements vary. Clarify who is responsible for the procedure and cost. The following applies when you are responsible, however it is wise to understand the process even if an engager is responsible.

Start the process early. Contact the country's embassy and the organization engaging you for estimates on how long the process will take. Whenever possible, visit an embassy in person; email can be very slow. On the telephone or in person, record the name of whom you spoke to so you can speak to the same person again or refer to them by name in the next conversation with another embassy representative.

Generally speaking, work permits are likely to be required in order to work legally. However, there are examples of legal work in some countries on visitor or even tourist visas. Know your status; CADA/West cautions members against working illegally as you will have no recourse if you run into trouble.

Visas can be expensive. Clarify the cost and include in your written contract whether the engager or you is responsible. CADA/West recommends that the engager pay for your visa; if so, determine if you will be required to pay up front and be reimbursed (and when) or if the engager will pay in advance.

For working in the U.S., be sure and consult the [On The Road Touring Handbook, Chapter 8, Tips for U.S. Touring.](#)

(B) Contracts

If your contract is written in a language for which you do not have a good working knowledge, get it translated. First ask questions of the engager. Face-to-face translation provides you

with the opportunity to ask questions. Take a grassroots approach to finding a translator; contact an ethno-cultural club associated with the language in question or ask at the embassy.

Ask that your contract include information on tax and other deductions. Foreign worker tax payments can be very high.

If you choose to work under conditions where travel, accommodation and per diems are provided but not an artist fee, ensure that the date of your return ticket can be changed at no cost to you, otherwise, you would have no recourse if conditions have not met the terms of the contract.

A letter can serve as a contract, however, CADA/West recommends that you undertake a written contract itemizing each consideration.

(C) Health & Safety on Tour

Contact the relevant embassy to learn required inoculations and do so well in advance of your departure. Talk to your doctor. Some inoculations require specific time gaps between them. Expect to pay for inoculations and learn the cost well in advance so a nasty surprise won't jeopardize your plans.

If you are an Ontario resident with OHIP coverage, know your status with OHIP. (Visit their website, see Resources section.) Generally, OHIP coverage requires you to be physically present in Ontario for 153 days in any 12-month period in order to qualify for continuous coverage. Consult OHIP to determine whether you qualify for Mobile Worker status under OHIP. Attend to this well in advance.

This step is important less for your coverage out-of-country than it is for your coverage when you return. The amount of OHIP coverage for services provided while out of the country is very limited; therefore, you should consider obtaining supplementary insurance from a private insurance company.

Visit the Government of Canada Foreign Affairs and International Trade Canada Travel Reports and Warnings webpage for travel advisories on health and safety issues as well as the World Health Organization International Travel and Health page (see Resources). Dance Umbrella Ontario also has a page in Step by Step: Running a Dance Business, What Do I Need To Know About Immigration and Crossing Border? (see Resources).

Section 17: Using Music

Understand the difference between "music for pleasure" and "music for your dance practice". Purchasing a CD does not entitle you to use the music for your own profit - only enjoyment. (Believe it or not, the concept of profit includes dance performances.) You should not use

another artist's artistic product without him or her receiving a fee or providing permission. You can use music in a rehearsal for no charge.

Your first step as a choreographer planning to use music, whenever possible, is to ask the composer for permission. Search on the internet for the composer's website or publisher. You may find that a royalty is waived or that the composer has set higher fees than the norm. Be aware that some composers often have staff to troll the internet for mention of the composer's name and take action when illegal use is found. Store your email or written attempts to contact the composer.

If this is unsuccessful, your next step is to go to the website of the Society of Composers, Authors and Music Publishers of Canada (SOCAN) which administers the performing rights for music creators, collects licence fees and pay royalties. Click on "I'm a Music User."

There is no specific category for dance performances and they fall under SOCAN Tariff 4.B.1. – (Classical Music Concerts). If this seems too irrelevant to your practice, take a look around the tariffs and email SOCAN for guidance. If you are using 4.B.1., you will download the form after the performance and complete it at that time. Go to the SOCAN site for the specifics; however, we would like to emphasize two things: 1) review this during pre-production while you are preparing your budget, and 2) clarify who is responsible for the payment of royalties and licences in your contract. (Please refer to Section 2.3.2.1 of this document.)

As previously stated, copyright generally enters the public domain 50 years after the death of the author or composer (however, there are exceptions to this). If you are using music in the public domain, you should not be subject to a fee, so be sure to make this clear to the venue. If you are presenting a mixed program, however, the producer or presenter will definitely add a surcharge to the tickets for SOCAN if it is a member of the Society.

This document does not provide an exhaustive overview of how choreographer's can legally use music and we refer you to the SOCAN website in the Resources section and also encourage you to read the information at the Theatre Ontario link in that section also.

Teachers should be aware that use of music for teaching purposes falls under SOCAN Tariff 19. CADA/West refers you to Dance Ontario, which has an excellent group licensing agreement which is \$64 per year for members.

Section 18: Choreographing From a Literary Source

There could be a difficult line to establish between being influenced by a literary work and basing a dance on the work. If you are basing a dance on a literary source, you need to obtain the necessary permission. Start by seeking the permission of the author. (See Music above.)

Section 19: Photographs of Your Work

The photographer owns the photograph and the choreographer owns the choreography. Clarify expectations of use prior to the photo shoot and write them down in a letter of agreement or contract. You will likely want the photographer to assign or license you for use of the photographs (see Glossary). The agreement you make will likely influence the photographer's fee (i.e. if you want total use in perpetuity, expect to pay a higher fee.)

Section 20: Video on the Internet

Opinions vary about posting video clips on the internet; some choreographers are concerned that it makes their work rife for theft and others value it for visibility and/or audience-building. Once your work is out there on the internet, it is unrealistic to expect that you will be likely to control the use of the choreography so make your decision based on your priorities. (See Using Music section also.) It is illegal to post a video using that music without a sync license.

Section 21: Cultural Issues

It has already been noted that for copyright to apply to choreography, it must be a new work. Staging a traditional dance presents specific issues that should be addressed by the community in question. Come to an agreement before you start work and write it down.

Appendix A - Canadian Artist Code

A professional Artist is recognized as one who meets a combination of four of the following criteria, one of which must be d., e., f or g.:

- a. The fact that an Artist has presented his/her work to the public by means of exhibitions, publications, performances, readings, screenings or similar representative appropriate to the nature of his/her work;
- b. The fact that an Artist is represented by a dealer, publisher, agent, or similar representative appropriate to the nature of his/her work;
- c. The fact that an Artist devotes a reasonable proportion of his/her professional time as an artist to promoting or marketing his/her work, including, but not limited to, presenting himself/herself for auditions, seeking sponsorship, agents or engagements, or similar activities appropriate to the nature of his/her work;
- d. The fact that an Artist receives or has received, compensation from his/her work including, but not limited to, sales fees, commissions, salaries, royalties, grants and awards, any of which may reasonably be included as professional or business income;
- e. The fact that an Artist has a record of income or loss relevant to the exploitation of his/her work and appropriate to the span of his/her artistic career;
- f. The fact that an Artist has received professional training either in an educational institution or from a practitioner or teacher recognized within his/her profession;
- g. The fact that an Artist has received public or peer recognition in the form of honours, awards, professional prizes or by publicly disseminated critical appraisal;
- h. The fact that an Artist has membership in a professional association appropriate to his/her artistic activity whose membership or categories of membership, is or are, limited under standards established by the association;