

Code of Ethics

Association des producteurs de films
et de télévision du Québec (APFTQ)

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Preamble

Whereas the members of the APFTQ recognize that, in addition to their role as cultural entrepreneurs, they bear social responsibilities, including the duty to serve society at large, represented by various groups, financial partners, salaried employees, craftspeople and artists;

whereas the members of the APFTQ recognize their duty to consider the interests of these groups and to earn their confidence and that of the public by encouraging highly professional behaviour and high standards of conduct;

whereas the members of the APFTQ believe that a code of ethics is a legitimate and necessary means to reconcile their professional interests and their social responsibilities, consistent with the objectives of the Association;

the General Assembly of the members of the APFTQ does therefore enact the present regulation or Code of Ethics.

Chapter 1

Definitions and Interpretation

1.1 In the present regulation, unless otherwise indicated by the context, the following definitions shall apply:

a) *“Member”*: A member of the Association des producteurs de film et de télévision du Québec as defined in Section V of the General Regulations of the APFTQ.

b) *“Financial partner”*: Any individual, corporation or public or private organization having contractual ties to the financing of an audiovisual production, including Telefilm Canada, the Société de développement des entreprises culturelles du Québec, financial institutions, co-producers, broadcasters and distributors, or that hires the services of a member for the purpose of making an audiovisual production.

1.2 The purpose of the present regulation is to clearly set out the professional duties of the members and to secure and promote public confidence in the integrity and professionalism of the members by enacting high standards of conduct.

1.3 The present regulation establishes a relationship of a contractual nature between the APFTQ and its members. Membership in the APFTQ entails a commitment to comply with the present regulation and consent to the collection and use of information relevant to its application.

Chapter 2

Duties Towards Financial Partners

2.1 Members shall take the measures necessary to enhance their knowledge and that of their employees, as well as the quality of their professional services.

2.2 Before accepting a mandate, members shall ensure that their company has the appropriate capabilities and means to carry it out. They shall take into consideration, among other things, the nature and complexity of the mandate, the training and experience of their personnel, and the technical and financial resources to which they have access.

2.3 Members must refrain from falsely representing their previous mandates, or their level of experience or competency and that of their personnel.

2.4 Members must ensure that the execution of all tasks related to the audiovisual production is assigned to competent persons.

2.5 Members must not lead their financial partners to believe that the budget at their disposal is sufficient for the intended project without being reasonably certain that this is so.

2.6 Members must propose suitable suggestions and solutions to their financial partners and must consult with colleagues not in conflict of interest or with persons competent in a pertinent area of expertise when they deem that such action could be beneficial to the audiovisual production.

2.7 Members must inform their financial partners as soon as possible of any prejudicial and hard-to-correct error they have committed.

2.8 Members must take reasonable care of property entrusted to their safekeeping by a financial partner and may not loan or use such property for purposes other than those intended.

2.9 Members must demonstrate objectivity in offering opinions on contractual documents binding their financial partners to third parties.

2.10 Prior to providing their professional services, members must conclude an agreement with their financial partners as to the extent and terms of the services and as to the financial structure.

2.11 In dealings with their financial partners, members must demonstrate reasonable availability and diligence.

2.12 In addition to opinions and advice, members must provide their financial partners with the explanations needed to understand and appreciate the production process.

2.13 Members must account for the progress of the audiovisual production at the request of a financial partner and demonstrate diligence in reporting and rendering accounts.

2.14 Members must subordinate their own interests to those of their financial partners and act in complete fairness.

2.15 Members must disregard any third-party action that could affect the execution of their professional duties to the detriment of their financial partners.

2.16 Members must maintain their professional autonomy at all times and avoid all situations apt to place them in conflict of interest. Without limiting the generality of the foregoing, a member is in conflict of interest:

- a) when the opposing interests are such that the member may tend to favour certain interests above those of a financial partner or that the member's judgement and loyalty may be adversely affected;
- b) when the member is not independent in advising on a given action or derives direct or indirect benefit from such action, immediately or in future.

2.17 Members finding themselves in a situation of conflict of interest must immediately notify their financial partners and request their authorization to pursue the audiovisual production.

2.18 Members must not disclose information furnished by a financial partner under presumption of confidentiality.

2.19 Members must not make use of information furnished by a financial partner under presumption of confidentiality for the purpose of securing an unfair or unethical advantage for themselves or others.

2.20 Members must act with integrity in their dealings with financial partners.

Violations of the present regulation include, among others:

- a) the submission of a false, incorrect or misleading budget, cost estimate, expense or cost report, contract, invoice or other written document;
- b) the use of a ghost writer in a creative position in a audiovisual production;
- c) any illegal practice encouraging black market employment;
- d) the offer of compensation to a financial partner or the partner's employees to secure financing;
- e) the paid use of goods or property belonging to a director or senior manager of a corporate entity member as a shooting location for a production enjoying public funding.

2.21 When requested by a financial partner, members must provide the explanations needed to understand the written documents referred to in paragraph (a), Section 2.20.

2.22 Members must disclose any known discount or commission related to a particular production in their cost reports, as well as any cash-equivalent volume discounts granted to them by service providers.

Chapter 3

Duties Towards the APFTQ and Other Professional Associations

3.1 Members must strive to earn the respect of their fellow members and of other professional groups and shall be guided by a sense of responsibility to maintain the good reputation of the APFTQ and the profession.

3.2 Members shall demonstrate accuracy and restraint in their public statements concerning or affecting another member of the Association or the APFTQ itself.

In particular, members must not directly or indirectly compromise the professional reputation of another member or of the APFTQ.

3.3 Members asked by the APFTQ to designate a person to sit on a Disciplinary Committee must do so unless serious grounds for refusal are demonstrated.

3.4 Members having knowledge of any reason to deny APFTQ membership to a candidate must immediately inform the Board of Directors of the APFTQ.

3.5 Members must recognize that their fellow members share the same rights and privileges they enjoy and must in no way compromise the rights and privileges of such members.

3.6 Members must not employ unjust means to obtain professional advancement or to compete unfairly with another member.

3.7 Members must ensure that credit for each professional contribution is properly assigned.

3.8 Members must not incite another member to commit a violation of the present regulation or of the other regulations and statutes of the APFTQ.

3.9 Members must not betray the good faith or abuse the trust of another member or engage in unfair practices towards another member. Among other things, members must not claim credit for an audiovisual production made by another member.

3.10 In their professional dealings with other members, members shall not withhold co-operation on the grounds of race, colour, sex, religion, sexual orientation, ethnic or national origin, social condition or any other ground provided for in Section 10 of the Charter of Human Rights and Freedoms (Q.R.S., c. C-12), including present and future changes thereto.

3.11 Members must comply with the policies issued by the APFTQ concerning their dealings with the members of any professional association recognized by the APFTQ. Such policies are issued with a view to harmonizing and improving relations among the various professional associations and clearly defining their respective roles and responsibilities in matters of common interest.

3.12 Members must immediately inform the Board of Directors of the APFTQ of any action or document by another association that they judge to be prejudicial to the profession, the APFTQ or its members.

3.13 Members shall strive to take part in interprofessional meetings dealing with the development of professional codes of ethics in the audiovisual production industry.

3.14 Violations of the present regulation include, among others:

- a) the unjustified refusal to appear before the Disciplinary Committee as a witness or to answer questions or produce documents;
- b) the unjustified refusal or failure to appear at a meeting of the Board of Directors of the APFTQ called with reasonable notice;
- c) the failure to notify the Board of Directors of the APFTQ, within a reasonable time, of a violation of the present regulation committed by another member.

3.15 Violations of the present regulation also include the refusal or failure to pay to the APFTQ any administrative penalty or charges arising from a disciplinary procedure within the time prescribed.

Chapter 4

Contribution to the Advancement of the Profession

4.1 Members must make a reasonable effort to contribute to the development of the profession by sharing their knowledge and experience with their colleagues and with students in learning institutions recognized by the APFTQ.

4.2 Members must make every effort to shield the membership of the APFTQ against false declarations, to increase public knowledge of the profession and to refute any allegation or false statement concerning the undertakings or services of the profession.

4.3 Members must not advertise in any manner that could be misleading or could compromise the dignity, honour or interests of the profession or the APFTQ.

Chapter 5

Duties Towards Personnel

5.1 Members must take reasonable measures, consistent with their resources, to support and encourage the professional development and advancement of their personnel.

5.2 Members adhere to an objective of workplace health and safety for their personnel.

5.3 Members acknowledge that the employees, performers and craftspeople who contribute to the making of an audiovisual production are entitled to fair and confidential protection and assistance in the event of sexual harassment.

The following constitute sexual harassment:

- a) Persistent, abusive and unwelcome expression of sexual interest;
- b) Remarks, comments, jokes or insults of a sexual nature adversely affecting the work environment;
- c) Verbal or physical advances or insistent propositions of a sexual nature;
- d) Promised rewards or threatened retaliation, whether implied or explicit, in connection with a proposition of a sexual nature.

5.4 Members shall make every effort to raise the awareness of their employees and non-APFTQ-member service providers with respect to matters of professional ethics and to encourage their compliance with both the letter and spirit of the present regulation.

5.5 Corporate entity members shall adopt a corporate regulation or directive aimed at prohibiting their personnel and persons acting under their authority from accepting compensation from suppliers of goods and services to the production.

Chapter 6

Complaints Procedure

6.1 Any member or any other person or organization having a sufficient interest in the matter may submit a complaint against a member for violation of the Association's regulations or for conduct derogatory to the honour, dignity and interests of the Association committed in the exercise of the profession.

6.2 Complaints must be submitted in writing, outlining the factual reasons and circumstances on which they are based and indicating the nature of the alleged wrongdoing. They must be supported by the complainant's sworn or solemn statement.

Complaints are addressed to the Complaint Review Committee referred to in Section 6.4.

6.3 The right to submit a complaint against a member lapses after one year, except in cases where the alleged conduct also constitutes a criminal act. The year is calculated from the time of the occurrence on which the complaint is based.

6.4 The Board of Directors forms a Complaint Review Committee composed of five members, including a chair.

At least three members of the Committee are chosen among the members of the Association.

Each member is appointed for a renewable mandate of two years.

The Committee has independent decision-making authority.

6.5 The quorum of the Committee is three members, including the chair and at least one member not belonging to the Association.

The Committee's decisions are made by majority vote.

6.6 The Board of Directors designates an Association employee to act as secretary to the Committee.

6.7 Upon receiving a complaint, the secretary sends a written acknowledgement of receipt, records the date of the complaint in a special register and opens a file.

The secretary is responsible for the safekeeping and confidentiality of the file.

The secretary promptly forwards the complaint to the chair of the Complaint Review Committee.

6.8 The Complaint Review Committee conducts a summary review of all complaints. It acts on the basis of the file, in closed session, and has full authority as to its process.

6.9 The Complaint Review Committee may:

- a) require the complainant to furnish additional information about the complaint;
- b) reject the complaint if it deems it inadmissible, frivolous, malicious or manifestly unfounded or unjustified;
- c) decide that there is cause for an investigation and a disciplinary citation.

6.10 A complaint is inadmissible if, in particular, its ultimate purpose is to obtain financial compensation from the APFTQ or if it deals with the application or interpretation of a collective agreement to which the APFTQ is a party.

6.11 Within thirty (30) days of receiving the complaint, the Committee notifies the complainant in writing of its decision or of the status of the file.

6.12 When the Complaint Review Committee finds that there is cause for an investigation and a disciplinary citation, it must draft the disciplinary citation referred to in Section 7.6 and submit it to the Disciplinary Committee.

6.13 When a complaint is rejected, the Committee must provide the complainant with a summary explanation of the reasons for its decision.

6.14 Before May 1 of each year, the Committee must submit to Board of Directors of the APFTQ a report on its activities for the preceding year ending March 31. This report contains only unidentified information.

Chapter 7

Disciplinary Procedure

7.1 The Board of Directors forms a Disciplinary Committee composed of no more than seven members, including a chair and vice-chair. Each member is appointed for a renewable mandate of two years. The Committee has independent decision-making authority.

The Committee is responsible for investigating all citations referred to it by the Complaint Review Committee and for exercising the other functions provided for in the present regulation.

7.2 The Disciplinary Committee may sit in divisions of three members, including the chair or the vice-chair and two other members designated by the chair. In the event of the absence or incapacity of the chair, the vice-chair designates the division members.

7.3 The Disciplinary Committee may be assisted by an attorney, who provides advice on legal or procedural matters but is not party to the Committee's decisions.

7.4 The Board of Directors designates an Association employee to act as secretary to the Disciplinary Committee.

The secretary is responsible for the safekeeping and confidentiality of all files. The secretary prepares and signs a record of all hearings.

7.5 Subject to the provisions of the present regulation and the principles of fair procedure, the Disciplinary Committee has full authority as to its investigation, its process and its evidence.

The Committee proceeds in forthright fashion, with all due speed and a minimum of formality.

7.6 The Disciplinary Committee commences proceedings upon submission of a disciplinary citation by the Complaint Review Committee. The citation must describe the conduct that may constitute a violation of the Association's regulations or an act derogatory to the honour, dignity or interests of the Association, as well as the details of time and place of the alleged conduct; as applicable, it must also indicate the provision(s) of the regulations alleged to have been violated.

7.7 The secretary to the Disciplinary Committee serves notice of the disciplinary citation to the member concerned by recommended mail.

7.8 Within ten (10) working days of notification of the disciplinary citation, the member receiving it must submit a notice to the secretary of the Disciplinary Committee, stating whether or not he/she acknowledges each of the alleged facts; the notice must be signed by the member or by a person authorized to do so. The member may submit observations with the statement.

Failure to produce this notice in the time prescribed may result in the loss of the right to ask that witnesses be called to appear at the Committee hearing.

7.9 When the member cited is a corporate entity, the corporate entity appears or acts through an authorized director or senior manager.

7.10 If the Disciplinary Committee deems it necessary to the fairness of the investigation, it may convene a hearing and call witnesses, by means of written notice signed by the secretary, either on its own initiative or at the request of the member cited.

The chair of the Disciplinary Committee division, or the vice-chair, as the case may be, sets the date, place and time of the hearing, and the secretary notifies the member cited.

7.11 The Disciplinary Committee holds its meetings and hearing in closed session.

It may, however, if it deems warranted by the circumstances:

- a) hold public hearings with the explicit consent of the member cited;
- b) inform the Board of Directors of the Association of any business under investigation, and the Board may inform concerned financial partners and the public that an investigation is being conducted.

7.12 Any member of the Association summoned to a hearing by notice from the Disciplinary Committee is obligated to appear, to answer the Committee's questions and to furnish any document required concerning the facts under investigation. Failure to appear or to answer questions or to furnish documents constitutes a violation of the present regulation.

7.13 Section 7.12 applies to the member cited. However, the member must be given at least seven (7) working days notice of the date, time and place where he/she is to testify.

7.14 An individual member of the APFTQ called as a witness before the Disciplinary Committee has the right to the assistance of an attorney or of another member of the APFTQ.

A person who is not a member of the Association and who voluntarily accepts to testify as a witness at a hearing also has the right to the assistance of an attorney.

7.15 The Disciplinary Committee may proceed with its investigation if the member cited has not produced the notice provided for in Section 7.8 or has not appeared at the appointed time for the hearing, despite due notification. In such case, the Disciplinary Committee may render a decision.

7.16 If, during the course of its investigation, the Disciplinary Committee becomes aware of a fact or of conduct not alleged in the citation but relating to it, the Committee has the authority to extend its investigation to such fact or conduct. However, it must notify the member cited and offer to hear the member's observations.

7.17 At any time prior to notification of a final decision disposing of the citation, the Disciplinary Committee, at its discretion, may terminate its investigation, if:

- a) the complainant refuses to co-operate with the investigation or to testify;
- b) the Committee finds that it does not have sufficient information to pursue the investigation effectively.

In such case, the Disciplinary Committee informs the Board of Directors of its decision, in writing, and the investigation is deemed closed.

7.18 The Disciplinary Committee has the authority to investigate the facts set out in the citation and to decide whether the conduct of the member cited constitutes a violation of the present regulation. The Committee may interpret the regulations of the Association to this end.

In the absence of a provision of the present regulation applicable to a particular case, the Committee has the further authority to decide whether the conduct alleged in the citations is derogatory to the honour, dignity and interests of the Association, using as a standard the member of good reputation placed in the same situation.

7.19 The Disciplinary Committee renders its final decision on the basis of a majority vote. The decision must be in writing and justified. Dissenting members may append their opinions.

7.20 The Disciplinary Committee renders its decision within thirty (30) days of the commencement of deliberations.

7.21 When the Disciplinary Committee decides that the conduct of a member constitutes a violation of the regulations of the Association, it imposes one or more of the following sanctions for each proven violation:

- a) a written warning;
- b) a reprimand;
- c) an administrative penalty of between \$500 and \$15,000, payable to the Association within thirty (30) days of notification of the decision;
- d) the requirement to pay the actual costs of the investigation as determined by the Committee, including expert witness fees, within thirty (30) days of notification of the decision;
- e) suspension of Association membership for a period not exceeding 24 months;
- f) expulsion from the Association.

7.22 When the Disciplinary Committee decides that the conduct of a member is derogatory to the honour, dignity and interests of the Association, the Committee imposes one or more of the disciplinary sanctions referred to in paragraphs a) b) c) d) of Section 7.21 for each proven derogatory act.

7.23 Before imposing a sanction, the Disciplinary Committee permits the member cited to present his/her observations concerning the sanction.

7.24 In determining a sanction, the Disciplinary Committee takes into consideration the objective seriousness of the misconduct, the exemplary impact required for the other members of the Associations, in light of the full circumstances, and the nature of the member's disciplinary record.

7.25 All final decisions of the Disciplinary Committee are notified to the member cited by certified mail.

Copy of each decision is also forwarded promptly to the Board of Directors of the Association, which, at its discretion, may convey it to the complainant, concerned financial partners and the public.

7.26 When a member cited is exonerated of all blame or when the Committee terminates its investigation under the terms of Section 7.17, the Disciplinary Committee may order the complainant, if a member of the Association, to pay the Association for the actual cost of the investigation within thirty (30) days of notification of such an order.

7.27 Before May 1 of each year, the Disciplinary Committee must submit to Board of Directors of the APFTQ a report on its activities for the preceding year ending March 31. This report contains only unidentified information.

Chapter 8

Disciplinary Committee Decision Review

8.1 Any decision of the Disciplinary Committee imposing a disciplinary sanction on a member may be reviewed by the Board of Directors of the Association, within thirty (30) days of the decision.

This review deals only with the disciplinary sanction and is conducted at the request of the member concerned or on the initiative of the Board of Directors, which may confirm, modify or cancel the imposed disciplinary sanction.

8.2 Any such decision which, at the end of the thirty-day period, has not been modified or cancelled is automatically confirmed.

Chapter 9

General and Final Dispositions

9.1 The members of the Complaint Review Committee and the Disciplinary Committee remain in office at the expiry of their mandate until re-appointed or replaced.

9.2 The members and the secretary of the Complaint Review Committee, the members and the secretary of the Disciplinary Committee and the members of the Board of Directors of the Association may not disclose any information learned in the exercise of their duties deriving from the present regulation, unless authorized by law or by the present regulation.

9.3 Notices referred to in the present regulation sent by fax are deemed received on the date appearing on the transmission confirmation report.

Notices sent by e-mail are deemed received on the indicated received date.

9.4 The present regulation replaces the Code of Ethics of April 28, 1993.

9.5 The present regulation does not apply to an act or conduct preceding its effective date unless the act or conduct constitutes a violation of the Code of Ethics of April 28, 1993, in which case Sections 6, 7, 8, and 9 of the present regulation apply.

9.6 The present regulation takes effect on the date it is adopted by the General Assembly of the APFTQ.

**Adopted by the General Assembly of the APFTQ on February 29,
2000**