

GUIDANCE FOR Inclusion Riders

INTRODUCTION

SDC Members are increasingly seeking ways to advance equity and access in the American theatre. One effective way to concretize your commitment to creating a more equitable and inclusive theatre ecosystem is through provisions in an Inclusion Rider. An Inclusion Rider is negotiated directly with your employer and provides for specific needs you may have identified for yourself, or for your production. Provisions might address: recruitment, interviewing, auditioning, and hiring of the cast and creative team; training and orientation; and/or marketing and community engagement.

This document is designed to help you determine whether or not an Inclusion Rider may be suitable for your particular circumstance and, if so, what approach, terms, and conditions you may want to consider. The guidance and the sample language provided is not meant to be all-encompassing. It is designed for you, the Member, to customize to your specific circumstances and needs, and, for those with representation, to do so with the advice of your agent or legal advisor. Every employer and production is unique, but, whether commercial or non-profit, regional or Off-Broadway, there are ways you can deploy your influence.

SDC has no formal role in a Member's decision to enter into individual Inclusion Riders with a Theatre/Producer, and does not mandate or control the content of these Riders. However, when attached to an SDC contract, reviewed and approved, SDC can provide enforcement support.

Remember that under all SDC contracts, Directors and Choreographers are employees without exception. While you may influence the Theatre/Producer's decision-making on whom to hire, the Theatre/Producer as the employer is responsible for the hiring of all employees, including actors, designers, associates, and other staff members, and for providing a workplace free from discrimination and harassment under the law. As a reminder, discrimination

and harassment based on any protected classification (such as race, gender identity, or disability) is unlawful. Any SDC Member who has been subjected to such behavior, or who has observed such behavior, is strongly encouraged to contact the Union.

IMPORTANT NOTES

- This document is an internal SDC resource guide for Members, their agents, representatives, or legal advisors to determine when and how during a contract negotiation to approach the negotiations for an Inclusion Rider. This guidance necessarily includes advice on strategies as well as sample language, and therefore **is not meant to be shared with employers.**
- The guidance in this document is not meant to replace counsel from your representative or legal advisor. It is recommended that you seek **legal review of all provisions of an Inclusion Rider.**
- An Inclusion Rider, as is the case with all other riders, **must be submitted with and attached to an employment contract and reviewed by staff. Upon approval, SDC can provide enforcement support.**
- If your employer presents you with an Inclusion Rider or any other document, **check with your SDC Contract Affairs Representative before signing it.**
- Your employer may request that you engage in marketing, communications, community-engagement, and/or fundraising events and/or opportunities. Your employment under an SDC contract does not obligate you to participate. You may want to consider your willingness to be available for such requests and/or seek additional compensation. If you choose to pursue additional compensation or direct support (e.g., childcare or transportation) for participation, **it is recommended that those discussions be part of your financial negotiation and not part of an Inclusion Rider.**

GUIDANCE FOR SDC MEMBERS ON DRAFTING INCLUSION RIDERS

DEFINITIONS

The term “**historically excluded or under-represented group(s)**” means people who identify as Black, Indigenous, Asian American and Pacific Islander, or other Non-Black people of color, people of Hispanic or Latino descent, people who identify as women of all backgrounds and identities, Lesbian Gay Bisexual Transgender or Queer (“LGBTQ+”) people, people over age 40, people with disabilities, people from religious minorities, or people having a combination of these identities or attributes. “Historically excluded or under-represented” are intended to be expansive terms, whose definition can be adjusted to address specific situations, or to include other historically excluded or under-represented groups protected by law.

The term “**Design and Creative Teams**” should be read as including:

- Designers
- Creative Staff and Consultants (fight choreographers, intimacy choreographers, cultural consultants, dialect coaches, dramaturgs, etc.)
- Associate/Resident Directors and Choreographers

The term “**Parties**” means Director and/or Choreographer and Theatre/Producer.

APPROACHING THE THEATRE/PRODUCER

You may want to consider the following when you approach a Theatre/Producer:

- **Timing.** As the Director and/or Choreographer, you need to assess where the production is in its production process before you negotiate the terms of an Inclusion Rider. An Inclusion Rider for a project that you have generated or a project you are brought on to direct and/or choreograph as it is being conceived will be different than for a project you are hired to do, for which a Theatre/Producer has already made creative decisions before you are brought on. An Inclusion Rider can only influence decisions moving forward—your ability to negotiate it should not presume to impact teams that are already in place

as it is not recommended that Members attempt to interfere with previous commitments made by employers.

Given that, do you want to raise issues that are important to you prior to accepting the job? Is your acceptance of the job contingent on an Inclusion Rider—either an agreement to have a Rider or specific terms of a Rider? Be mindful of the rhythms of a production process and the complexities of the development process. Is an Inclusion Rider appropriate for a workshop? Often, contracts—particularly in the commercial arena—include lengthy negotiations. How do you ensure that those principles are in place early enough to have impact? Answering these questions will give you clear guidance on when to engage in a conversation about Inclusion Riders.

- **The Author(s).** In some instances, licensing agreements include authorial approval in many areas typically covered in an Inclusion Rider. The Theatre/Producer is responsible for informing you of any requirements, limitations, or restrictions in the licensing agreement that may impact your work on the production and/or ability to use your influence.
- **Whom to approach?** Should you approach the Producer or the General Manager? Some Members manage their relationship directly with Theatres/Producers, others are represented. You may want to consider the jurisdiction as well as your history with a particular Theatre/Producer. Is this an early conversation with the Artistic Director/Producer or a conversation with the General Manager? If represented, do you want the topic of an Inclusion Rider to be raised by your agent? In the case of new plays, what is your relationship with the Author? Is there an opportunity for the Author and the Director and/or Choreographer to collaborate on the terms of an Inclusion Rider?
- **Specificity and measurable outcomes.** Being clear about your desired outcomes and how they are measured is important. There are numerous ways to leverage your influence to have meaningful impact, including by ensuring that a more diverse talent pool is considered by the Theatre/Producer and that the creative process is informed by practices that enhance equity and anti-racism. Minimum thresholds/percentages/quotas for casting/hiring of certain historically excluded or under-represented groups may be problematic for employers because they may violate federal, state, and local employment laws that prohibit employers from discriminating against any person based on certain specified characteristics, such as: race, color, national origin, gender, sexual orientation, and religion.

- **Safe workplaces.** SDC recognizes that there are many approaches and pedagogies supporting anti-racist and anti-bias practices, and it is the responsibility of the employer to create a safe workplace. You may want to consider a provision that obligates the Theatre/Producer to inform you of the core values of the institution or company's approach to EDIAB [equity, diversity, inclusion, accessibility, and belonging], including the background and qualifications of any staff or consultants providing training for the cast and creative team (such as non-discrimination, anti-harassment, anti-racism, and anti-bias training). Understanding an employer's approach, and having an opportunity to share your own EDIAB core values, can be critical to ensuring a productive professional relationship and work environment.

SAMPLE PROVISIONS AND LANGUAGE FOR USE IN DRAFTING INCLUSION RIDERS

Following, you will find sample provisions and language for advancing equity, to the extent such decisions are permissible by law and are consistent with applicable collective bargaining agreements, including your SDC contract. It is presented as guidance for you as you consider what provisions might be appropriate for you.

Again, this guidance is not meant to be exhaustive, nor is it meant to replace counsel from your representatives or legal advisor.

Potential provisions and sample language to consider might include:

DESIGN AND CREATIVE TEAMS

- The Theatre/Producer shall commit to being intentional about who the design and creative teams will be, and shall make all reasonable efforts to fill those positions with individuals from groups that have been historically excluded or under-represented, where those positions were not filled prior to the involvement of the Director and/or Choreographer.
- The hiring process shall include members of historically excluded or under-represented groups as Associate/Resident Directors and Choreographers.
- The hiring process shall include members of historically excluded or under-represented groups as design associates and assistants, facilitating a pipeline for greater representation among designers.
- The design and creative team shall have access to cultural or historical expertise when doing work that is culturally or racially specific.

- Hiring of assistants, interns, and apprentices to support the designers and other creatives shall be through sources that compensate such persons appropriately and do not supplant Union jobs or positions.

CASTING

- Before the commencement of the casting process, the Director and/or Choreographer and/or Casting Director shall consider, in consultation with the Author and/or Theatre/Producer, where the script presents opportunities for casting qualified individuals from historically excluded or under-represented backgrounds. To reach a determination regarding benchmarks for the casting of historically excluded or under-represented groups, the Parties will consider the geographic location and time period in which the story is set. The consideration may also include, but shall not be limited to, whether the production is based on or adapted from historical or current true events.
- The Theatre/Producer shall commit to being intentional about who the Casting Director will be and/or shall hire a Casting Director from a historically excluded or under-represented group and/or will provide Resident Casting Directors the support needed to ensure that the actors who are brought in include individuals from historically excluded or under-represented groups. The shared goal will be to open up a wide pool for auditions and create as many opportunities as possible.
- Wherever possible, members of historically excluded or under-represented groups will be selected for all onstage roles.
- The audition process should include the good-faith consideration of casting women in roles scripted for men, or for which gender is unspecified, as well as a deliberate effort to seek out and consider individuals from those groups who have been historically excluded or under-represented.
- The audition process shall include readers whose race corresponds to the race of the character(s) in the play in all situations where race is specified by the Author.
- The Theatre/Producer shall comply with all applicable federal, state, and local laws to ensure that individuals who have a mobility disability and are interviewing and/or auditioning can access the interview or audition location. The Theatre/Producer will take any other reasonable steps to accommodate individuals with disabilities throughout the hiring process.

TRAINING AND ORIENTATION

- The Theatre/Producer shall commit to being intentional with respect to expectations for training and cultural competency.
- The Theatre/Producer agrees to provide the Director and/or Choreographer with background information on the institution or company's approach to EDIAB. Orientation materials will include the qualifications of any consultants or staff providing training (such as non-discrimination, anti-harassment, anti-racism, and anti-bias training) for individuals in both offstage and onstage positions.
- The Theatre/Producer agree that the Director and/or Choreographer—particularly those individuals from historically excluded or under-represented groups—shall not be required (beyond the scope of their job responsibilities) to take on the educating of individuals in onstage and/or offstage roles when doing work that is culturally or racially specific.
- In consultation with and/or with the approval of the Director and/or Choreographer, the Theatre/Producer may engage, or the Director and/or Choreographer may request that the Theatre/Producer engage, the services of cultural consultants with the necessary qualifications to support the Director and/or Choreographer, cast, and creative team.
- The Theatre/Producer shall support the Director and/or Choreographer in creating a rehearsal room culture that is inclusive through personal choices including: land acknowledgments, naming of personal pronouns, "community agreements" and/or "access check-ins" as part of the rehearsal rituals.

MARKETING AND COMMUNITY ENGAGEMENT

- The Theatre/Producer shall commit to being intentional with respect to the Director and/or Choreographer's participation in marketing, communications, community-engagement, and/or fundraising events and/or opportunities.
- The Theatre/Producer shall provide opportunities for the Director and/or Choreographer to discuss their vision for the production with appropriate staff including Development, Education, Marketing, and Production staffs.
- The Theatre/Producer shall provide the opportunity for the Director and/or Choreographer to consult on critical marketing materials such as key art, language, and messaging.
- The Theatre/Producer shall engage appropriate Marketing and Community Engagement staff or outside experts to reach new and historically excluded or under-represented audiences.

- The Theatre/Producer shall give adequate notice for requests for the Director and/or Choreographer to participate in events, opportunities, or programs. Such participation will not interfere with the production schedule and appropriate supports will be provided (e.g., transportation, childcare, meals).
- The Theatre/Producer agrees, when working with other members of the creative team or cast, to support the needs of those who have been asked to work on community-engagement activities, ensuring such activities don't interfere with the production schedule, and providing adequate notice, transportation, meals, and other support such as childcare.
- The Theatre/Producer shall provide opportunities for the Director and/or Choreographer to create an inclusive experience for audiences through such means as land acknowledgments in pre-show speeches, house music, and curtain speeches.
- The Theatre/Producer shall provide economic access to historically excluded or under-represented audiences through XX discounted tickets to the production.

DOCUMENTATION AND REPORTING

- The Theatre/Producer recognizes that the road to equity requires sustained efforts and continual evaluation. It is therefore of mutual interest to capture metrics that demonstrate success or recognize shortfalls.
- Towards that end, the Theatre/Producer agrees to keep records of their efforts consistent with the elements of the Inclusion Rider, such as records of actors auditioned, called back, and offered roles. Upon request, the documentation will be made available either to the Director and/or Choreographer or to SDC to assess compliance.
- In the case of institutional theatres, the Theatre agrees to report to SDC hiring stats for designers and actors in the aggregate following the completion of each season.

CLOSING

This document has been created as a guide and is not meant to be exhaustive, nor is it meant to replace counsel from your representatives or legal advisor. We hope it is helpful to your work as leaders in the room, and the field. As noted, if you are able to negotiate an Inclusion Rider to your contract, SDC can provide enforcement support. If you have additional questions, about what has been provided herein or other provisions you are considering, please feel free to contact SDC.