

Los Angeles Intimate Theater Code (LAITC)

Developed by Alex Fernandez, Rebecca Metz, Leo Marks and Larry Poindexter. In consultation with: James Babbin, Curt Bonnem, Ginna Carter, Roslyn Cohn, Mel England, Richard Fancy, Peter Finlayson, Julia Fletcher, Lisa Glass, Mike Lorre, Margaret McCarley, Kevin Meoak, Roses Pritchard, William Lewis Salyers, Vanessa Stewart, and Joel Swetow.

Below are suggestions we feel should make up a plan that can govern all theatres with 99-seats or less. We have created this plan with input from members of the Los Angeles community including actors, stage managers and producers. We feel this is a workable plan and we urge AEA to consider this as the basis of a bridge plan to the current 99-seat seat agreement.

AVAILABILITY OF THE PLAN

We believe this plan should be made available to all non-profit theatre companies operating in venues with 99-seats or less.

MAXIMUM NUMBER OF PERFORMANCES FOR SINGLE PRODUCTION

We believe that the Maximum number of performances for a single production a theatre organization can produce under this plan should be set at twenty-four (24) performances. If the theatre wishes to continue a production after twenty-four (24) performances, that production must move to a minimum wage contract (IE: AEAs' 99-seat agreement) Exception to this would be:

- a. A theatre organization under this plan should also be able to extend the number of performances for one production each fiscal year to forty (40) performances.

SINGLE PRODUCTION BUDGET

We believe that the Theatre's Single Production Budget under this plan should not exceed:

- a. \$40,000 for a play (cast under 10)
- b. \$50,000 for Musicals (cast under 10)

For casts that are larger than ten (10) we are suggesting we look at increasing the Single Production Budget based on the number of additional actors that would take into consideration additional costuming and actor reimbursements for rehearsal and performance (this amount to be determined).

The Single Production Budget will include only production-specific costs (IE: directors, designers, actors, set materials and construction, costumes and construction, and any special costs for advertising, promotion, lighting, sound or video specific to the production). The following will not be included in Single Production Budget.

- a. Rent and facilities cost (utilities, maintenance)
- b. Administrative Theater Staff

If theatre organizations wish to mount a production where production costs exceed the above Single Production Budget, that production must be produced under the minimum wage contract (IE: 99-seat agreement).

A CAP ON ADMINISTRATIVE COSTS

We believe that a CAP should be placed on theatre organization's administrative staff. We suggest the cap should be set at twenty-five percent (25%) of the theatre organization's Annual Revenue as stated on line 12 of the Federal 990 form. This amount can be calculated by taking an average of the most recent three years.

We also believe Theatre organizations that have been operating for five (5) or more years can have their administrative staff cap increased for two years, provided that increase is attributed to paying a full or part time development director. This exception can only be granted one time for each theatre organization. What that increase is and how it gets calculated should be discussed.

ACTORS' REIMBURSEMENT

As much as we believe actors should be paid for their work, we understand that EDD is presently ruling that Actors can't be classified as Independent Contractors. Therefore any payment to actors that is less than minimum wage, must be in the form of reimbursement. While our investigation as to how EDD would like theatre organizations to reimburse is ongoing we are suggesting the following:

- a. Theatre organizations with single production budgets below \$25,000 reimburse actors a minimum of \$15 per performance. *
- b. Theatre organizations with single production budgets above \$25,000 and lower than the cap as stated in paragraph four (4) reimburse actors a minimum \$25 per performance.*
- c. A calculation on how theatres calculate rehearsal reimbursement expenses should be discussed and a minimum amount determined.

*It would be the responsibility of the theatre organization to collect and log expense receipts.

OTHER THOUGHTS WE'D LIKE TO SEE IN A NEW PLAN

REHEARSAL PERIOD

Similar to the provision as listed in AEAs' self-producing code which states that the rehearsal period prior to the first public performance is mutually convenient to the Equity members in the group in terms of both the number of rehearsal weeks and the rehearsal hours per week. Actors would agree to a defined length of rehearsal before rehearsals begin and that rehearsal period cannot be changed without unanimous approval from the actors.

VIDEO TAPE

A provision will be drafted allowing producers permission to archival videotape productions with actors' unanimous consent. Producers and Equity to find a workable solution that will prevent video to be used commercially, without actors consent.

SAFE AND SANITARY AND OTHER ACTOR PROTECTED PROVISIONS

We would like to see all other provisions that protect Actors as stipulated in the AEAs' Transitional Los Angeles 99-Seat Theatre Code remain in effect (with some minor revisions). This includes all safe and sanitary condition rules; all casting rules and regulations; all rules concerning nudity; all rehearsal rules; all breaks and rest period rules; all understudy rules; all stage fighting rules; all rules concerning costuming; all rules concerning bios; publicity and advertising; all complimentary ticket rules; all production rules after opening; all rules concerning rights and obligations with respect to future productions (subsidiary rights rules; etc.).

LENGTH OF PLAN

We would like to see The Los Angeles Intimate Theatre Code stay in effect for five years.

COMMITTEE TO MONITOR PLAN

We propose a committee formed of Equity Actors, Stage Managers, Members of The Western Advisory Board and Producers be established to monitor the plan, and to advise and make recommendations as to possible changes and improvements.

PLEDGE TO LOS ANGELES THEATRE COMMUNITY

While we await the outcomes of two pending litigations, one, a lawsuit filed against Actors' Equity Association by members of their union and a separate case also against Actors' Equity now pending at the National Labor Relations Board, we, the undersigned intimate theatres of Los Angeles, will remain open to all actors (union and non-union) up to and beyond December 14, 2016. Until there is a ruling on this matter, and until otherwise directed by the court, we will continue to operate per AEA's Transitional 99-Seat Plan (in regards to rehearsal hours, safe and sanitary conditions, etc.). We further agree to stand behind our pledge to work with AEA and their members to create a workable plan for Intimate Theatre in Los Angeles.

68 Cent Crew Theatre Company, Academy for New Musical Theatre, Actors Forum Theatre, Black Dahlia Theatre, The Blank Theatre, Bootleg Theater, Casa 0101, Celebration Theatre, Chromolume Theatre, Circle X Theatre Co., City Garage, Collaborative Artists Ensemble, Company of Angels, Coeurage Theatre, Crooked Heart Theater, Crown City Theater Company, Echo Theater Company, The Eclectic Company Theatre, Elephant Theatre Company, Ensemble Studio Theatre/LA, Evidence Room, The Fountain Theatre, Four Clowns, Fremont Centre Theatre, Good People Theater Company, Grand Guignolers, IAMA Theatre Company, Indecent Exposure Theater Company, The Inkwell Theater, Jaxx Theatricals, Koan, The Lex Theatre, Little Fish Theatre, Loft Ensemble, Lower Depth Theatre Ensemble, Malibu Playhouse, Matrix Theatre, McCadden Place Theatre, New Musicals Inc., Odyssey Theatre, Offending Shadows Theatre Company, Open Fist Theatre, Padua Playwrights, Playwrights' Arena, Robey Theatre Company, Rogue Machine, Ruskin Group Theatre Company, Sacred Fools Theater Company, Santa Monica Playhouse, Sierra Madre Playhouse, Skylight Theatre Company, Stella Adler Theatre, Theatre 40, Theatre Banshee, Theatre Of NOTE, Theatre Unleashed, The Victory Theatre Center, VS. Theatre Company, West Coast Jewish Theatre, Whitefire Theatre, The Workman

Joint Statement by Pro99 and the Plaintiffs in Ed Asner, et al v. Actors' Equity Association

Darkness in December

The clock is ticking down, beginning December 14th, 2016, despite the Los Angeles Community's urging and a lawsuit served on Equity by Equity members, Equity will impose new rules and regulations here which will change theatre in Los Angeles forever. Change can be good, but not this change. **This change will take away most of your opportunities to work in theatre in Los Angeles and destroy Los Angeles Intimate Theatre as you know it.**

48 years ago Equity actors in Los Angeles fought for and were granted the right to form theater companies and perform without pay. These were professional actors. They wanted the same thing that you want now. **The right to do the work you have always dreamed you might do - to be artists in a relationship with your community in theatres that treat all the artists fairly and are safe.**

Equity's new rules and regulations indicate they believe it is more important for you to make money – that making money must take precedence over making art. All of us in this community would be happy to be paid to do the work we do. We hope to be paid to do it. We should be paid to do it. A few lucky ones are. That is not why we make theatre. Los Angeles' intimate theatres may be dilapidated but they are also one of the few places on earth created to house hope – and so they are priceless and must be protected at all cost. **Art is not and cannot be solely a commercial venture.**

Equity's new rules and regulations destroy a system and a community that has been in place for almost half a century. The changes will eliminate the prior plan and a settlement agreement approved by both actors and the union after actors sued the union in 1986 to prevent similar changes. These current changes were brought to an advisory referendum on April 21, 2015 and were defeated by you 67% to 33%. You said you did not want these new rules and regulations by a margin of 2 to 1. You want to preserve your right to follow your dreams, to do the work you want to do. **Your Union is taking those rights away and we must stop them.**

No one is forcing actors to volunteer. It is your will. It is your right. **Equity is trying to take away your rights to volunteer.**

Many theatres you know and love will be forced out of business. Those that survive will have to use non-union actors. Actors you know and love will no longer be appearing in intimate theatres. The theatres that will be forced to change or close include theatres that are large and small – *The Odyssey Theatre, The Fountain, The Skylight Theatre, Boston Court, The Victory, The Blank* and more than 60 or 70 other theatres.

Equity did create some new rules and codes which they say will afford you a similar opportunity to what you used to have. This is not true. **These rules and codes greatly diminish both members' and theatres' ability to achieve excellence.**

The new codes have budget and the rehearsal period restrictions so onerous that the good theatre you have been doing and seeing in Intimate Theatres will disappear after December 14th. Why is it so necessary to put such punitive limits on budgets and rehearsal periods? **What are these restrictions trying to accomplish?**

The only exclusion which continues to give Equity members the opportunities they have had for the last 48 years is “the membership rule.” Equity members can continue to volunteer in “membership companies” but without benefit of contract. Without benefit of contract means that Equity members no longer are guaranteed the protections Equity guaranteed them in the former 99-seat agreement. **Why can’t members working under the Membership rule have those protections?**

Some “membership theatres” you may know include *Pacific Resident Theatre*, *Theatre 40*, *Theatre West*, *Rogue Machine*, *Antaeus*, and many more. Equity would like the members in these companies to believe they are safe. Membership theatres are not safe. **The membership rule is an internal rule and Equity has warned it can be changed at any time. Union members would not have a say in it.**

What is a “membership theatre?” Who decides if your theatre qualifies? What are the qualifications? Why can you volunteer in these theatres but cannot in other legitimate not-for-profit 99 seat and under theatre organizations? Why can you continue to volunteer at *Rogue Machine* and not at *The Skylight Theatre*? How is this fair to you or theatre organizations? **What right does Equity have to decide who shall live and who shall perish?**

The Los Angeles Intimate Theatre community has survived for almost a half of a century. It has been both a laboratory and a proving ground. Actors, playwrights and other theatre artists who may not have ever gotten an opportunity have found the beginnings of significant careers here. **Equity seems determined to make sure that can’t continue to happen.**

More than 120 plays that received world premieres in the Intimate Theatre Community have gone to contract. They’ve been seen on Broadway, Off-Broadway and all over the world. In most cases the local Equity actors who originated roles have benefited. **Last year, Spring Awakening went from a 99 - seat house to Broadway. 18 Los Angeles actors went with it.**

Help us save this community so we can continue to grow ... our clock is running out.

- ❖ **Write Equity leaders and tell them how important intimate theatre in Los Angeles is to you – why you want it preserved.**
- ❖ **Tell your friends. Tell elected officials. Tell the media.**
- ❖ **Follow us on Facebook: www.facebook.com/ILove99SeatsLA**
- ❖ **Follow us on twitter: <https://twitter.com/99SeatsLA>**
- ❖ **Check in with us on our Website: www.ilove99.org**
- ❖ **Join our fight... Get on our mailing list.**
- ❖ **March with us when we protest.**
- ❖ **See plays and if you can afford to do so, support your local theatres.**

Written by John Flynn

August 2016

Why Equity's plans don't work and will harm the greater Los Angeles community, the intimate theatre community in Los Angeles and Equity members who reside here.

Equity suggests that there are 117 theatrical companies producing under the old 99 seat Theatre plan. We know there are more. Equity neglects to tell you that almost all of these theaters were created by and for actors. They were not created to provide employment although they often have engendered employment. They were created so that the actors who founded these theatres would have a place to follow their dreams, to do the work they have always wanted to do, to be artists. No one forces actors to work in these theaters. They do it because they want to and they want to continue to be able to do so. This is why when Equity asked local members to vote on their new code structure in 2015 their proposal was defeated 2 to 1 by the local membership in a voting turnout of historical proportions. Because this vote was advisory Equity could choose to ignore their members wishes. They have.

Equity would have you believe the disagreement they are having with their own members is about getting people paid. It is not. Everyone would like to be paid or paid more. This disagreement is about methodology. What is the best way to move the community forward? How do we continue to nurture theatre art in this community while developing a stronger economic base for the community and getting more people paid? Equity offers a seemingly punitive scorched earth plan.

On December 14th of this year Equity will enforce new rules and codes that they say will offer local members and most theatres here the opportunity to continue working as they did under the old 99 seat code. They say only 26 theatres will be affected. **The entire community will be affected.**

Here's a look at the changes and how they do not do what Equity says they do.

Equity' list of 26 theatres is incomplete and doesn't take into consideration any new theatres that could be created now or in the future. 14 of the affected theatres have been producing in Los Angeles for more than 10 years. Some have been producing as long as 40 years. Combined, these theatres have produced more than 250 years of theatre here. These theatres are being told that after December 14th they will have to move to contract whether they can afford to or not. Some will have to close. Some will have to use non-union actors and/or stop doing the work they have done and produce fewer productions with much smaller casts and significantly more modest production requirements. Equity actors associated with these companies, and all these companies have Equity members associated with them, will no longer be able to pursue their dreams in these companies.

Equity says 30 of the other theatres typically produce in spaces with less than 50 seats and so will be able to continue under the new 50 seat code. **The under 50 seat code is onerously restrictive** – Show budgets are limited to \$20,000 including rent, companies can produce no more than three shows a year, and shows can run no more than 16 performances within a 5-week period. Rehearsals are limited to 128 hours within a 5-week period. The budget limitations and rehearsal rules will make it almost impossible for actors who want to pursue excellence to do so. \$20,000 will hardly cover the rent for 10 weeks in most theatre spaces. Production values will disappear.

There is not enough rehearsal time. **The under 50-seat code will not allow actors to pursue their art. These 30 theatres will no longer be able to do good work.**

Equity says that 61 theatres are Equity Approved Membership theatres and that local members will be able to continue to work at these theatres as they did in the past but without benefit of Equity oversight. The old plan guaranteed members protections which included safe and sanitary conditions rules, casting rules and regulations, rules concerning nudity, rehearsal rules, breaks and rest period rules, and many other protections including rules concerning rights and obligations with respect to future productions (subsidiary rights rules).

All of these protections are gone. Actors who do world premieres in these theatres no longer have any guarantees their often significant contributions will result in any future participation, either by being offered the role or receiving financial compensation as currently required. All of these protections are still part of the new Under 50 seat code. **Why do actors who work using the under 50-seat code receive protections and actors who work under the membership exclusion rule do not?** This seems punitive. Equity actors can pursue their dreams in membership theatres but only by giving up all protections. Equity also forbids the creation of any new Membership companies.

Equity says intimate theatre producing entities in Los Angeles County fall into three major categories:

Membership Companies Approved by Equity – where local Equity members are punished for participating by losing all the protections members working under the other new codes have.

Companies Producing in Theaters of 50 Seats or Fewer - where the new restrictions are so onerous that excellence is simply unobtainable and the results of producing under this code do not justify the effort local members would have to make to do so.

Seasonal or Regularly Producing Theaters of 99 Seats or Fewer –where theatres will have to pay minimum wage to actors whether they can afford it or not. Theaters will be forced to close or make substantially changes to how they are doing business including severing relationships with many of the actors who have given years of their lives to contribute to the work these theaters have done while pursuing their own dreams of creating art.

So when we do the math – as Equity says – here’s what we are actually left with – ALL 117 THEATRES (by their count), most of whom were created by and are still run by equity members or who have principals who are members of Equity, ARE SEVERELY ADVERSELY AFFECTED by Equity’s new plan and rules, in spite of the wishes of their local membership. And the final kicker is that Equity can eliminate the Membership Rule, the 50-seat showcase code and the new self-producing rule at any time.

Equity did no real research on their own, refused to consider statistical information given them by both theatre community organizations and local funding agencies including government officials. They constantly ignored the community’s call for joint funded research in order to devise a plan, which would accomplish real change with minimal destruction.

The intimate theatre community in Los Angeles is thriving. More than 125 productions have originated here and gone on to other productions all over the world. Last year Deaf West’s *Spring Awakening* moved from a 99 seat house to a mid-sized local theatre to Broadway, bringing with it 16 LA actors from the original 99-seat cast. Rogue Machine’s *One Night in Miami...* opens at the Donmar Warehouse in London in October.

Equity's changes seem to be deliberately constructed to eliminate or reduce this theatre community's ability to create meaningful, artistic work in the future. Emerging unknown playwrights will lose one of the last remaining communities that can afford to give them a chance. Actors who have been discovered not by doing mediocre showcase productions but by being a part of extraordinarily resonant well produced and adequately rehearsed work will not be discovered. Actors, designers and directors who have had the life giving opportunity to do the work they dreamed of doing will no longer have that opportunity.

Local Equity actors and other members of this theatrical community are not against change. Local Equity actors and other members of this theatrical community are in favor of creating a community where more people can be paid. They would like to see more contracts. They want the community to grow. They understand that growth takes time, careful planning, and the participation of many entities including local foundations and government and the union. Local Equity members have a better plan. Go to llove99.org to learn more.