

Guide to Recognizing and Responding to Harassment

Associations bring together like minded individuals to share industry best practices, education, and community. The more diverse the population of members, the richer these experiences become. In the pursuit of this diversity, however, there can arise situations which unless navigated successfully can cause unintended breakdowns in our culture. As such, we have developed this guide to serve as a resource to our members on recognizing and reacting to those situations to create a safe, supportive, and respectful environment in which our members can thrive.

Defining Harassment

For most of us, when we think of harassment, the first thing that comes to mind is sexual harassment, however, the legal definition lists other forms of behavior in which unwelcomed conduct has a severe impact on the individual creating a hostile environment. As participation in an association is often linked to your job, association activities can become an extension of the work environment and thus can also be subject to harassment laws. It is important for you to understand the legal definition of harassment and review your organizations and your associations policies and procedures for addressing harassment.

Some types of harassment, however, may not meet the legal definition but may still cause you or others to feel uncomfortable in an association setting or even be unsure if harassment has occurred. This can include any unwanted or annoying actions by a single person or by a group of people which makes you feel uneasy, awkward, or demeaned. It includes things like prejudices based on gender, race, religion, sexual orientation. It may even take the form of a personal hatred or even a pressure to behave in a certain way to be accepted by the rest of the group. While these behaviors may not meet the legal definition of harassment or discrimination, they do not create the welcoming, inclusive environment the association desires. In these situations, there may be less inclination to assign it the label of harassment to avoid confusion with the legal definition.

EEOC Definition of Harassment

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

(U.S. Equal Employment Opportunity Commission, 2018)

Recognize Harassing Behaviors

In most cases, it is easy to recognize behaviors which are clear and overt in nature; however, those situations which cross moral or ethical lines may be harder to recognize. As human behavior is gradient, so too is recognizing words or actions which may be harassing in nature or be perceived to be harassing in nature. Additionally, knowing what to do in those situations may also fall into a gray area as you try to determine the impact of the words or actions to the person to whom the words or actions are directed.

Observation and understanding of both verbal and non-verbal responses can be a useful tool in recognizing harassing behaviors. When a person is uncomfortable, often their body sends that signal out as a form of protection. Signs such as lowering eyes to the ground or being unable to establish eye contact, folding of the arms across the body, stepping backward, stiffening of the body, broken speech, anxious movement such as hand wringing, or fidgeting are common indicators of discomfort. While these signs do not confirm that harassment has occurred, monitoring reactions of others is a good opportunity to explore things deeper. Sudden changes in behavior may also be a warning sign. Avoidance of a person or a changed demeanor to them can signal that some form of conflict has taken place, however, like the other signs this alone is not definitive proof of harassment.

The chart below illustrates additional signs that may be helpful in recognizing behaviors.

Level	Description	Example	Recipient Response
	Overt physical or sexual contact	You are/you witness sexual or physical assault, or someone reports physical or sexual assault to you.	Recipient is in eminent danger and/or law enforcement involvement is needed
	Clear, overt, and/or persistent verbal, physical, or sexual harassment; clear overt discrimination based on gender, sexual orientation, race, religion, etc. May be a single action or persistent situation	A coworker makes repeated demeaning comments about a certain ethnicity.	Recipient is in a serious or continued state of distress.
	Strong and/or persistent verbal, physical or sexual innuendos or actions; overt or persistent discriminatory innuendos or actions	An older boss refuses to give certain work assignments to younger employees.	Recipient displays signs of clear discomfort or distress
	Moderate and/or infrequent verbal, physical sexual innuendos or actions; covert or persistent discriminatory innuendos or actions	A male employee tells a female employee that he really likes the dress she is wearing because it accentuates her curves.	Recipient displays signs of confusion and discomfort.
	Subtle or isolated verbal or physical innuendo or act/discriminatory innuendo or act	A coworker tells a slightly off-color joke.	Recipient displays some signs that they may be uncomfortable, but further dialogue may be needed.

Analyze the Situation

Determination of harassment may be based on a reasonable person's perceptual response to the situation. In other words, no two people may see the situation the same or feel the same level of discomfort. Given the gray area surrounding harassment, it is important to analyze each situation independently and objectively. Whether the person affected is you or someone else, it is important to note that there are two key factors at play when determining what occurred and what the appropriate response should be: intent and interpretation.

Intent refers to the meaning behind a person's actions. Not every word or action is intended to cause others distress or to make them feel uncomfortable. Often, miscommunication or attempts at humor can cause other discomfort even though there was no intent to do so. However, in other cases, causing discomfort is the sole purpose of the words or actions.

Analyzing the situation begins internally by asking questions like:

"What exactly did I experience/witness?"

"What words or actions specifically were questionable?"

"What is this person's relationship to me/the other individual?"

The other piece of analysis is interpretation or how the people around the individual understood their words or actions. Like intent, interpretation is based on a person's own experience in the situation. Because we are human, we bring with us a myriad of information which we use to inform our understanding of our surroundings. Using things that happened to us previously, information received, and feelings, we interpret the world around us so frequently that we often forget how we reach our conclusions. Analyzing your interpretation of the situation begins internally and occurs often in a split second. By pausing and asking ourselves how we experienced or saw the situation and what we may have inferred, we can better understand how our response was shaped.

Questions like:

Recipient	Witness
How did what was said or done make me feel?	How could the recipient feel about this situation?
Why did it make me feel that way?	Should I follow up with the recipient to see if he/she is ok?
Did I feel uncomfortable, offended, or threatened?	Did I observe any physical cues that the recipient felt uncomfortable, offended or threatened?
Do I have any preconceived thoughts or opinions which may be influencing my interpretation?	Do I have any preconceived thoughts or opinions which may be influencing my interpretation?
Do I need further clarity?	Do I need further clarity from either party?

Respond Accordingly

Once you have analyzed what happened and formulated an idea of why, then it is time to respond. Depending on the severity of the words or actions, you may have only seconds to decide on how you will react to the situation. Keeping in mind that both physical and emotional safety is the top priority in any situation, your reaction should be appropriate and proportional to the situation.

Clarifying the intent of the words or actions is an easy way to begin communication. One trick is to create a positive atmosphere by beginning with the assumption that the other person acted from a well-intentioned place. This allows you to dig deeper into the intent and interpretation openly.

Here are some simple empowering ways to clarify intent:

“I’m not sure what you meant by that. Can you elaborate?”

“I may have misheard you. Can you repeat that?”

“It seemed like you interrupted Paul numerous times in the meeting. Were you just excited about his points or is there something I’m missing?”

If the clarification does not resolve the issue, then additional probing questions could be used, or a statement given that the behavior you experienced or witnessed was not acceptable.

“What motivated you to say/do that?”

“How did you form that opinion?”

“We are committed to treating everyone with respect and equality. Jokes like that are not appropriate.”

If the behavior persists or you cannot resolve the situation, you should report it to your appropriate contact within your organization or ask for help.

Helpful Communication Tips

- *Address the situation immediately*
 - *Ask for clarification, if appropriate*
 - *State what made you uncomfortable and why*
 - *Give specific actions which would alleviate the problem in the future*
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Follow Up and Follow Through

For situations which are easily resolved and do not require reporting, there may be little to no follow up unless the situation is persistent. However, if an incident is reported, you may be called to provide a written or verbal accounting of what transpired. It is important to note that due to the nature of some investigations and resulting actions on the part of an employer and/or the association, the results of the investigation and/or actions taken may not be able to be disclosed to you, legally. Keep in mind that your association takes these matters very seriously and has consulted with all affected parties and legal counsel in the remediation of the situation.

Creating an Open Dialogue Culture

If you are the one being harassed or witnessing harassment on any level, you have the duty and obligation to your fellow members to act. Avoiding problems or hard conversations or waiting on others to speak up can have an unintentional negative impact on you, others, your employer, and your association. While no one likes conflict, you are the single greatest influential force in creating a safe, respectful, and dynamic organization and setting the tone for others to follow.

In the event of harassment which requires reporting, failing to report or being idle can also impact your employer and association negatively. In addition to legal considerations, it can impact other members, sponsors, stakeholders who engage with your organization regularly. It can also present your employer and your association negatively and create a continued negative behavior. If you witness harassment and need assistance or need to report it, contact your designated association contact and/or your designated employer contact.

For more information on harassment, please visit our other resources at (insert links to other resources we create) or contact us at Academy of Communication in Healthcare at lsingler@amrms.com or 859-514-9211.