

Not Here: Zero Tolerance for Inappropriate Workplace Conduct



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Last year I attended a leadership conference hosted by Camp Fire, a nonprofit dedicated to helping young people to “find their spark, lift their voices, and discover who they are.” During the opening keynote session, Hal Gregersen, Executive Director of the MIT Leadership Center, reminded his audience that “assumptions act as blinders,” and encouraged leaders to “look for surprises.” One approach is to ask the question, “How many things am I dead wrong about?” Gregersen’s prompt led me to reflect on the fact that many nonprofit leaders have blinders on when it comes to workplace culture and misconduct. During the past year we’ve learned that egregious workplace misconduct—including sexual harassment—impacts organizations across a wide spectrum of industries, including our beloved nonprofit sector.

Waking Up to Workplace Misconduct

The resignations and terminations of prominent sector leaders has been a wake-up for leaders who believed that our noble missions inspire noble actions towards internal as well as external stakeholders. Yet during some NRMC consulting engagements, we’ve heard stories about conduct that could very well be reported as sexual harassment between colleagues. So perhaps I’ve been dead wrong about the extent to which inappropriate conduct is occurring in the organizations whose missions I support and admire. Does the shiny surface of a nonprofit distract attention from wrongdoing that may be causing harm to staff? Is misconduct sometimes overlooked, even if the nonprofit condemns harassment in a written policy?

Why and How We Ignore Workplace Harassment

Despite the serious consequences of workplace harassment and growing awareness about its costly toll on employees as well as employers, the potential for damaging and illegal conduct remains a very real risk for nonprofits. Sadly, harassment complaints continue to take our sector by surprise. While that shouldn’t be the case, perhaps there are other factors in play that cause us to be surprised by inappropriate behavior and egregious misconduct committed by the people we trust to serve and deliver our missions. Below are seven possible reasons that workplace harassment flies ‘under the radar’ in the nonprofit sector:

- **Disbelief** – Believing that something “couldn’t happen here” has no impact on the likelihood of that event occurring: it does, however, reduce the opportunity to root out bad behavior, hold all staff

accountable, and create an environment worthy of your mission. Remember that you'll always be blind to something... the fact that you haven't seen misconduct doesn't mean that it isn't happening.

- **Too Nice** – In a recent article on [social engineering](#) risk, we encouraged readers to be “nicely suspicious” when it comes to handling inquiries and interacting with unknown visitors in the workplace. We reminded you that a pleasant attitude and inquiring mind aren't incompatible traits. Nonprofit team members should all display a willingness to respectfully question whether misconduct is jeopardizing the safety and integrity of the team.
- **Cause Up, Guard Down** – Rallying around a cause or a campaign is a common occurrence in a nonprofit. This sometimes means burning the midnight oil and a commitment to setting aside normal work patterns. Working long hours on an advocacy issue, fundraising campaign or new program understandably leads to stress. Research shows that compulsive behavior is harder to resist when we're under stress. In an article published by the Association for Psychological Science titled “Stress Changes How People Make Decisions,” the writers note that there may even be general differences in how men and women respond to stress: when men are under stress, they become even more willing to take risks; when women are stressed, they become more risk averse.
- **Charismatic Untouchables** – The term “untouchable” typically refers to an individual within a group that has been excluded or ostracized by mainstream society. But here I'm referring to nonprofit leaders who seem to occupy a position of privilege due to their charisma. In a nonprofit, charisma is often a differentiator between sector leaders who are effective fundraisers and public advocates for a cause, and those who are not. Boards and staff sometimes put these leaders on a pedestal and look the other way when inappropriate conduct occurs. In the book *Willful Blindness*, by Margaret Heffernan, the author explores how we ignore painful and frightening truths and wrongfully believe that deflecting and denying truths protects us.
- **Dangerous Disbelief** refers to the common practice of believing that someone we admire or respect is incapable of inappropriate or illegal conduct. At NRMCA we have seen this in many cases involving child abuse: after incidents come to light there are usually stakeholders who still tout the reputation, talents, and character of the person they thought they knew. Another facet of Dangerous Disbelief is the reaction of some victims: did this really just happen to me? Did I misunderstand or misinterpret what was just said or done? Am I partly to blame for what happened to me?
- **Power Imbalance** is the one reason *Here Too* on my list that precedes inappropriate conduct and illegal harassment in all sectors. Despite the egalitarian values many nonprofits espouse, reporting relationships and hierarchies are common to all organizations. Ignoring power balances in your organization gives individual team members the space to act on ego rather than prioritizing your nonprofit's mission and your team's collective goals. Want to manage power plays at work? Read our article, “[Sick of Power Plays?](#)”
- **Mission Loyalty** – The final Reason on my *Here Too* list is unique, I believe, in the nonprofit sector: victims of harassment and other inappropriate or illegal conduct may hesitate to bring their experiences to light due to fear that their actions will harm the nonprofit missions they love. This reasoning arguably does more harm than good in the organization, as it goes against the virtue of the nonprofit from within.

What is Illegal Workplace Harassment?

Nonprofit leaders should strive to be aware of both federal and state laws pertinent to harassment in the workplace. These include:

- **Federal Laws:** Title VII of the Civil Rights Act of 1964 makes it illegal to base employment decisions on characteristics such as race, color, religion, national origin and sex, and also prohibits harassment against an employee because of these characteristics. The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination based on an employee's age (40 or older). The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination based on an employee's disability.
- **State Laws:** State-specific laws have expanded federal civil rights protections, such as by including additional protected characteristics, and by lowering the threshold of applicability. Visit this [National Conference of State Legislatures](#) webpage for information on the list of protected classes in each state for employment decisions and purposes.

Harassment Facts and Myths

- *Some inappropriate workplace conduct might not be illegal conduct.* To constitute illegal workplace harassment, conduct must create an environment that “would be intimidating, hostile, or offensive to reasonable people.” (Source: [EEOC](#))
- *Victims of illegal harassment include, but are not limited to the person harassed in the workplace.* Anyone

affected by illegal, offensive conduct is a potential victim of harassment.

- *Any employee is a potential victim* of sexual or other forms of illegal harassment—regardless of their sex, status, sexual orientation or identity. Harassment’s costly price tag includes mental and physical harm to the survivor—including consequences that survivors might suffer throughout their lives—as well as economic damage to our society.
- *Illegal harassment negatively impacts all employees* at a nonprofit in the form of poor morale, low productivity, and increased turnover, not to mention financial and reputational harm.
- *Any employee, volunteer or contractor might be a perpetrator* of illegal harassment for which your nonprofit can be held legally and financially liable. If allegations are made, no one should be given a special pass or be considered above suspicion.
- *Illegal harassment may be found even when the victim or victims have not suffered tangible, economic injury*, such as a demotion or termination of employment.
- *Workplace harassment too often goes unreported*. According to a report from the EEOC, common “workplace-based responses” by victims of harassment include avoiding the harasser, denying or downplaying the gravity of the situation, and attempting to “ignore, forget or endure the behavior.” The report includes an astonishing statistic: “roughly three out of four individuals who experienced harassment never even talked to a supervisor, manager, or union representative about the harassing conduct.”
- *Retaliation is strictly prohibited*. Federal and state anti-harassment laws also prohibit harassment against an employee for filing charges of discrimination, participating in an investigation, or opposing employment practices the employee reasonably believes are illegal or discriminatory. This form of prohibited discrimination is often referred to as illegal retaliation.

Stop Workplace Harassment Before It Harms Your Greatest Asset

Nonprofit leaders often showcase their staff members as the greatest asset to their missions. If you’ve ever said, “my staff and volunteers are the heart of this organization,” then pledge to stop workplace harassment before your heart is harmed.

- *Adopt a broad, clearly written policy that strictly prohibits workplace harassment based on any protected characteristic*. Your anti-harassment policy should prohibit any form of illegal harassment and make sense on the first read. Keep in mind that an overly-legalistic policy will be viewed cynically by employees: before sharing the policy, ask yourself two questions: 1. will readers understand what conduct is strictly prohibited? and 2. will readers know exactly what to do if they witness or experience inappropriate conduct?
- *Invite ideas and input about ways to improve your workplace culture, including input on your harassment policy and reporting methods and procedures*. Remember that all of your employment policies should be subject to change—including changes prompted and inspired by the thoughtful concerns and inputs of the staff your policies are designed to protect! Never close the door on input and resolve to remove unnecessary barriers to speaking up about policies that aren’t working or need modernizing.
- *Investigate all allegations of workplace misconduct, even when you believe that the behavior might be inappropriate, but not illegal*. Remember that—like near misses preceding a crisis—inappropriate conduct could later snowball into illegal conduct. Investigating all inappropriate conduct might help you prevent future illegal misconduct. Doing so also sends a clear message that your nonprofit takes misconduct seriously, and also understands that employees may sometimes misinterpret the intentions or actions of their co-workers. Keep in mind that not every investigation will lead to a finding of inappropriate or illegal conduct and punitive measures. But every investigation of allegations of misconduct can be a valuable lesson for your organization.
- *Update your training program focused on harassment prevention and reporting for employees and managers*. Remember that training too-narrowly focused on avoiding legal liability doesn’t effectively prevent misconduct, and overly generic training materials and modules inspire cynicism about your commitment to preventing and remedying inappropriate conduct. Implement training that equips your staff with the skills they need to reject and report harassment, should they experience or witness harassing behavior.
- *Adopt a no exemptions policy when it comes to mandatory anti-harassment training*. Don’t give senior leaders a pass or assume that anyone is too busy or experienced for your customized, essential training. The desire to skip anti-harassment training directly challenges the values of any nonprofit that prioritizes

workplace safety and respect.

- *Find out if your state and size trigger mandated sexual harassment training.* Connecticut, Maine and California are among the states that require periodic training. In California, employers of 50+ staff must provide two hours of interactive training at least every two years.

Of late, news is teeming with tales of workplace sexual harassment in Hollywood, Silicon Valley, and more recently, the NGO world and nonprofit sector. While it's important to recognize that both men and women are victims of workplace harassment, many American women are stepping forward for the first time to report harassment they have experienced recently, and during their careers. A [Nonprofit HR article](#) reminds us that 73% of nonprofit sector employees are women, yet other sources, like this [Nonprofit Quarterly article](#), convey that only 43% of nonprofit board seats—specifically, 33% of board seats in nonprofits with budgets \$25 Million and up—are held by women. While I'd like to think that the nonprofit sector refutes gender disparities, these statistics and recent news stories make me worry that I'm dead wrong. The truth is that we must all band together to respect and encourage diversity and inclusion in our sector, as one of many strategies to squash workplace harassment.

Resources

Take advantage of the multitude of free and authoritative resources to prevent harassment and address allegations and incidents. These include:

- [Report of the Select Task Force on the Study of Harassment in the Workplace](#), U.S. EEOC
- Nolo's article, [Guidelines for Handling Discrimination and Harassment Complaints](#)
- Resources available from your state department of labor or commission on human rights (e.g., New York State Division of Human Rights, [Guidance on Sexual Harassment for All Employers in New York State](#))
- Harassment prevention resources and the employment hotline available from your Directors' & Officers' or Employment Practices Liability provider

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