## Key Points to Consider in a Potential Harassment Policy

Questions:

1. While events at ICANN55 focused on the need for a Conference Harassment Policy, would it not be prudent to create a Harassment Policy that covers all of ICANN’s activities? If not, how does one deal with harassment that continues after an event, or starts online or through conference calls, meetings, etc. outside the actual face to face conferences?
2. What is the purpose of a harassment policy, and how does it intersect with the existing standards of behavior policy? (<https://meetings.icann.org/sites/default/files/icann-standards_of_behavior-jul14.pdf>)
3. How does one differentiate between inappropriate remarks or actions, and harassing, demeaning, and abusive behavior? Many harassment policies scope the offensive activity or actions in terms of repeated behavior that forms a pattern, or if only a single event, an event that is of very significant proportions (eg physical contact). A policy must be clear enough that when Implementation guidance and training is provided, our global multicultural audience will be able to understand clearly when conduct and speech are unwelcome or inappropriate, and when they are very offensive to normal sensibilities and constitute harassment. Defining normal will be challenging.

The policy should guide the reader through this nexus. It should also recommend actions on the part of parties to reduce friction, not precipitate conflict. In this respect, we recommend checking for best practices in similar organizations. We have compiled a few useful materials related to harassment in Appendix 1, but stress that ICANN is quite unique so tailoring a suitable policy ought to be done carefully and with due consultation of all stakeholders.

The following represents key points for consideration regarding a proposed ICANN Harassment Policy.

,The term "harass" as defined in Merriam-Webster means:

1. 1 a :  [exhaust](http://www.merriam-webster.com/dictionary/exhaust), [fatigue](http://www.merriam-webster.com/dictionary/fatigue) b (1) :  to annoy persistently (2) :  to create an unpleasant or hostile situation for especially by uninvited and unwelcome verbal or physical conduct

As used in this policy harassment includes:

* Making Inappropriate remarks, pictures, comments, jokes, slurs, or verbal conduct directed at or about an individual, including remarks about race, color, religion, national origin, sex (including same sex or sexual orientation), pregnancy, childbirth, or related medical conditions, age, disability or handicap, citizenship status, competency, or other personal characteristics. [or any other category protected by any applicable governing law.]
* Inappropriate communication regardless of medium, of pictures, drawings, photographs, figurines, or other graphic images, conduct, or communications, including e-mail, faxes, and copies. This includes material of a personal nature pertaining to an individual’s race, color, religion, national origin, sex (including same sex or sexual orientation), pregnancy, childbirth, or related medical conditions, age, disability or handicap, citizenship status, service member status, or any other category protected by applicable law.
* Offensive sexual remarks, sexual advances, or requests for sexual favors regardless of the gender of the individuals involved.
* Offensive physical conduct, including touching and gestures, regardless of the gender of the individuals involved. ICANN conference attendees’ also absolutely prohibit retaliation, which includes: threatening an individual or taking any adverse action against an individual for (1) reporting a possible violation of this policy, or (2) participating in an investigation conducted under this policy.
* ICANN participants generally, as well as all conference attendees are covered by this policy and are prohibited from engaging in any form of harassing, discriminatory, or retaliatory conduct in their activities at ICANN. No attendee or other ICANN participant may suggest to any individual that their role or interests would be affected by the individual entering into (or refusing to enter into) a personal relationship with the another attendee or participant, or for tolerating (or refusing to tolerate) conduct or communication that might violate this policy. Such conduct is a direct violation of this policy.

The following paragraph should be included in the conference registration process, with a link to the policy:

* By participating in an ICANN conference, you agree to refrain from harassment, discrimination, or retaliation of other attendees throughout the conference period. Individuals should immediately report any harassing or discriminating behavior by others to named ICANN staff member or entity. Any individual who experiences or observes harassment, discrimination, or retaliation should report it using the steps listed below.
* If you have experienced behavior that in your view constitutes harassment under this policy, by anyone including and not limited to ICANN Conference attendees, participants, sponsors, contractors, staff and board members, you should immediately report the matter. Due to the very serious nature of harassment, discrimination and retaliation, report your concerns to one of the individuals listed below:
  1. First, report the incident to the named ICANN staff member or entity.
  2. If you are not satisfied after you speak with the named contact or if you feel that you cannot speak to the named contact, you may report the incident via [xxxxx@ICANN.org](mailto:xxxxx@ICANN.org).
  3. If you are not satisfied with the response to your submission, then contact xxx, ICANN staff members.
* You shall report any actions that you believe may violate our policy no matter how slight the actions might seem.
* ICANN Staff [or the appropriate body] will investigate reports and take prompt, appropriate remedial action. ICANN will protect the confidentiality of individual(s) reporting suspected violations of the incident(s) to the extent permissible and with due regard for procedural fairness.
* Individuals must act in good faith when reporting improper conduct, harassment, discrimination, retaliation, or other actions which they suspect violate this policy. The first goal of the policy is to support a consensus approach to conflict resolution, and to end unwanted behavior.
* [Need a clause here written by the lawyers that protects the rights of the accused person or persons, and provides some kind of sanctions for malicious reports. Again, since this is a volunteer multi-stakeholder organization, it is not clear what sanction exists except to ban from meetings/activities in extreme cases.]
* Persons who violate this policy may be subject to removal from the current and/or future event(s) and conference(s).

**ICANN Staff Responsibility**

* Any staff member who is made aware of any form of harassment or potential incidents is required to immediately report the situation to xxxx.
* Each staff member has a responsibility to maintain a working atmosphere free of all forms of harassment and intimidation and for communicating and enforcing this policy and the standards of behavior <https://meetings.icann.org/sites/default/files/icann-standards_of_behavior-jul14.pdf>,.
* Questions regarding the above policy or reporting and investigative procedures may be brought at any time to [xxxx@icann.org](mailto:xxxx@icann.org).

Suggested References for Best Practices

IETF Harrassment Policy and related documents https://www.ietf.org/blog/2016/04/team-to-help-regarding-harassment-concerns/

Canadian federal harassment policy and implementation guidance: <http://www.tbs-sct.gc.ca/psm-fpfm/healthy-sain/prh/index-eng.asp>

US Equal Employment Opportunity Commission <https://www.eeoc.gov/laws/types/sexual_harassment_guidance.cfm>

European Commission (this may be an outdated document, but it is useful)

http://ec.europa.eu/civil\_service/docs/equal\_opp/comm\_native\_c\_2006\_1624\_3\_acte\_en.pdf