

## Response to Documentary Information Disclosure Policy Request

To: Padmini Baruah on behalf of the Centre for Internet & Society

Date: 21 May 2016

Re: Request No. 20160423-4

---

Thank you for your Request for Information dated 23 April 2016 (Request), which was submitted through the Internet Corporation for Assigned Names and Numbers (ICANN) Documentary Information Disclosure Policy (DIDP) on behalf of The Centre for Internet & Society (CIS). For reference, a copy of your Request is attached to the email forwarding this Response.

### Items Requested

Your Request seeks the disclosure of documentary information relating ICANN's internal sexual harassment and training policy. Specifically, your Request seeks documents responsive to the following questions:

1. "Which individual or organisation conducts the sexual harassment training for ICANN staff and board members? Please provide a copy of their curriculum vitae."
2. "What are the materials – documents, presentation slides etc. – that are utilised for this purpose? Please attach a copy of these."
3. "What is the internal sexual harassment policy at ICANN applicable to ICANN employees?"

### Response

ICANN is committed to providing a work environment that is free of unlawful harassment. As part of this commitment, each staff member and Board member must complete an ICANN internal training on harassment prevention. (*See* <https://www.icann.org/resources/board-material/resolutions-2014-04-30-en#1.b>; <https://www.icann.org/en/system/files/files/board-training-30apr14-en.pdf>.)

With respect to documents responsive to Item 1, the internal training on harassment prevention program for staff and Board members is an interactive online program designed by NAVEX Global, Inc. (NAVEX). Information about NAVEX can be found on its website at <http://www.navexglobal.com/en-us>.

With respect to document responsive to Item 2, as noted above, the harassment prevention training program is an interactive online program designed by NAVEX. The materials associated with the program are integrated into the online platform. As these

materials are the proprietary intellectual property of NAVEX, they are subject to the following DIDP Defined Condition for Nondisclosure and not appropriate for disclosure:

- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

Notwithstanding the applicable Defined Condition of Nondisclosure, ICANN also evaluated the materials subject to the condition to determine if the public interest in disclosing them outweighs the harm that may be caused by such disclosure. ICANN has determined that there are no particular circumstances for which the public interest in disclosing the information outweighs the harm that may be caused to ICANN and its contractual relationships by the requested disclosure.

With respect to the documents responsive to Item 3, ICANN is producing in response to this Request its internal Prohibition of Harassment Policy.

### **About DIDP**

ICANN's DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see <http://www.icann.org/en/about/transparency/didp>. ICANN makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN continually strives to provide as much information to the community as is reasonable. We encourage you to sign up for an account at MyICANN.org, through which you can receive daily updates regarding postings to the portions of ICANN's website that are of interest because, as we continue to enhance our reporting mechanisms, reports will be posted for public access.

We hope this information is helpful. If you have any further inquiries, please forward them to [didp@icann.org](mailto:didp@icann.org).

# **ATTACHMENT**

1. **PURPOSE:**

To define the Company's policy against harassment of any kind in the workplace.

2. **POLICY/PROCEDURE:**

ICANN is committed to providing a work environment that is free of unlawful harassment. Harassment in employment violates ICANN's policy and, in the United States, is prohibited under Title VII of the federal Civil Rights Act and the state Fair Employment and Housing Act. ICANN will not tolerate any form of unlawful harassment or discrimination, and it will take all reasonable steps to prevent unlawful harassment from occurring.

A. **Sexual Harassment**

Federal (U.S.) and California law defines sexual harassment as unwanted sexual advances, requests for sexual favors and/or visual, verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or (2) submission to or rejection of such conduct is used as a basis for employment decisions affected the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.

This definition includes many forms of behavior. The following is a partial list:

- Unwanted sexual advances.
- Offering employment benefits in exchange for sexual favors.
- Making or threatening reprisals after negative response to sexual advances.
- Visual conduct: leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or posters.

- Verbal conduct: making or using derogatory comments, epithets, slurs, sexually explicit jokes, and/or comments about an employee's body or dress.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.
- Physical conduct: touching assault, impeding or blocking movements.

It is unlawful for males to sexually harass females or other males, and for females to sexually harass males or other females.

B. Other Types of Unlawful Harassment

In addition to sexual harassment, ICANN's policy prohibits all types of harassment which are based on an employee's race, color, national origin, ancestry, religion, creed, ethnicity, age, physical or mental disability, sexual orientation, marital status, veteran status, gender identity or any other basis prohibited by federal, state or local law. The policies and procedures described herein apply to all types of unlawful harassment and employees should feel free, without fear of retaliation, to follow the reporting procedures set forth herein if they believe they have been unlawfully harassed.

ICANN's anti-harassment policy applies to all applicants, independent contractors and employees involved in the operations of the Company and prohibits harassment by any employee of ICANN, including supervisors and co-workers. ICANN's anti-harassment policy also strives to protect applicants, independent contractors and employees from harassment by clients, vendors, or others doing business with ICANN.

Similarly, ICANN will not tolerate harassment by its employees of non-employees with whom ICANN has a business, service or professional relationship. Whether the harassment is perpetrated on the job by someone employed or by someone not employed by ICANN, employees should follow the reporting procedures set forth herein.

C. Preventing Unlawful Harassment and Discrimination

A program to eliminate harassment and discrimination from the workplace is not only required by law but is the most practical way to prevent incidents from occurring, or to avoid or limit damages if unlawful harassment or discrimination should occur despite preventive efforts. Employees, supervisors, and/or managers who become aware of any violation of ICANN policy against discrimination and harassment must immediately advise Human Resources. Failure to report known harassment or discrimination may result in disciplinary action up to and including termination of employment. All employees are required to participate in training provided by ICANN designed to recognize and eliminate harassment and discrimination in the workplace.

D. Complaint and Reporting Procedure

ICANN's complaint procedure provides for a prompt, thorough and objective investigation of any harassment or discrimination complaint, and appropriate disciplinary action against one found to have engaged in prohibited harassment or discrimination.

Employees who believe they have been harassed or discriminated against on the job should provide a written or verbal complaint to Human Resources as soon as possible. The complaint should include details of the incident(s), names of individuals involved, and the names of any witnesses. Supervisors and managers should immediately refer all harassment complaints to Human Resources.

All incidents of harassment or discrimination that are reported will be investigated. ICANN will promptly undertake or direct a prompt, thorough and objective investigation of the harassment allegations. Upon completion of the investigation a determination regarding the harassment alleged will be made and communicated to the employee(s) who complained and the accused harasser(s). Any employee found to have engaged in discriminatory or harassing conduct in violation of ICANN policy will be subject to disciplinary action, up to and including termination of employment. Appropriate action will also be taken to deter any future harassment. Whatever action is taken against the harasser will be communicated to the employee who complained.

ICANN prohibits and will not knowingly permit retaliation against any employee by another employee or by the Company for using the complaint procedure outlined above or for filing, testifying, assisting or participating in any manner in any investigation, proceeding or hearing conducted by a federal or state enforcement agency.

Any report of retaliation by anyone against an employee lodging a complaint in accordance with the procedures outlined above will be immediately, objectively and thoroughly investigated in accordance with ICANN's investigation procedure outlined above. If a complaint of retaliation is substantiated, appropriate disciplinary action, up to and possibly including termination, will be taken.