

# ATIXA Policy & Procedure

## Civil Rights Equity Resolution for All Members

Adopted By: The ATIXA Advisory Board April 2016; Last Updated December 2020

### **POLICY: Equal Opportunity, Harassment and Nondiscrimination**

*As used in this document, the term “reporting party” refers to the person impacted by alleged discrimination. The term “responding party” refers to the person who has allegedly engaged in discrimination.*

#### **Applicable Scope**

ATIXA affirms its commitment to promote the goals of fairness and equity in all aspects of its membership experience. All policies below are subject to resolution using ATIXA’s Equity Resolution Process (ERP), as detailed below. When the responding party is an ATIXA member, the ERP is applicable regardless of the status of the reporting party who may be a member or non-member.

#### **Association Equity Officer**

The Executive Director of ATIXA serves as the Equity Officer and oversees ATIXA’s policy on equal opportunity, harassment and nondiscrimination.

Inquiries about and reports regarding this policy and procedure may be made to:

Katie Walker

Executive Director, ATIXA

475 Allendale Rd, Suite 200

King of Prussia, PA 19406

[katie.walker@atixa.org](mailto:katie.walker@atixa.org)

610-993-0229 ext. 1047 (direct line)

#### **Reporting Discrimination**

Reports of discrimination, harassment and/or retaliation should be made directly to the Equity Officer, by phone, email or in person. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to ATIXA’s jurisdiction, the ability to investigate, respond, and provide remedies may be more limited.

All reports are acted upon promptly while every effort is made by ATIXA to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees of TNG, LLC and ATIXA are designated as mandated reporters and will share reports and concerns with the Equity Officer promptly.

### **Jurisdiction**

This policy applies to conduct that take place at ATIXA-sponsored event or with respect to ATIXA-related business and may also apply to the external and/or online conduct of members when the Equity Officer determines that the conduct affects a substantial ATIXA interest. A substantial ATIXA interest is defined to include:

- a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or members;
- c) Any situation that significantly impinges upon the rights, property or achievements of members or significantly disrupts the association mission, programs, or activities;
- d) Any situation that is detrimental to the reputation, ethics, or integrity of ATIXA.

### **1. ATIXA Policy on Nondiscrimination**

ATIXA is not subject to federal and state civil rights laws prohibiting discrimination. Nothing in this policy is intended to subject ATIXA to such laws. However, as an association dedicated to the prevention and remediation of discrimination, ATIXA commits to non-discrimination as an act of ethical leadership and expects its members to honor ATIXA's mission in their professional and personal conduct.

ATIXA commits that it will not discriminate against any applicant for membership or any member on the basis of race, religion, hearing status, personal appearance, color, sex, pregnancy, political affiliation, source of income, place of business, residence, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, family responsibilities, sexual orientation, gender, gender identity, gender expression, veteran or military status (including disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, and Armed Forces service medal veteran), predisposing genetic characteristics, and/or domestic violence victim status.

Any member who acts to deny, deprive, or limit ATIXA associational access, benefits and/or opportunities of another on the basis of their actual or perceived membership in the protected classes listed above is in violation of the ATIXA policy on nondiscrimination. When brought to the attention of ATIXA, any such discrimination will be appropriately addressed and remedied by ATIXA to the extent appropriate, possible, and practical, according to the Equity Resolution Process described below. All vendors, sponsors, partners, or exhibitors serving ATIXA are subject to these policies and procedures or to those of their employers, to the satisfaction of ATIXA, or such relationships can be severed as a result.

### **3. ATIXA Policy on Discriminatory Harassment**

Members are entitled to an associational environment free of discriminatory harassment. ATIXA's harassment policy is not meant to inhibit or prohibit educational content or discussions that include germane but controversial or sensitive subject matters necessary for discourse within an anti-discrimination-focused association.

#### **a. Discriminatory and Bias-Related Harassment**

Harassment constitutes a form of discrimination that is prohibited by ATIXA policy. ATIXA condemns and will not tolerate discriminatory harassment by or against any member. To the extent possible, ATIXA will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, ATIXA may also impose sanctions on the harasser through application of the Equity Resolution Process. ATIXA's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member.

A hostile environment may be created by a member's harassing verbal, written, graphic, or physical conduct that is so severe or persistent/pervasive, and objectively offensive that it interferes with, limits, or denies the ability of an individual to participate in or benefit from associational programs or activities or educational or employment access, benefits, or opportunities.

ATIXA reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of discipline under ATIXA policy, but will be addressed through respectful confrontation, remedial actions, education, and/or effective conflict resolution mechanisms.

## **b. Sexual Harassment**

ATIXA has adopted the following definition of sexual harassment.

Sexual harassment is:

- unwelcome,
- sexual, sex-based, and/or gender-based,
- verbal, written, online, and/or physical conduct.

Anyone experiencing sexual harassment in any ATIXA program or by an ATIXA member is encouraged to report it immediately to the Equity Officer. Remedies, education, and/or training will be provided in response to the extent appropriate, practical, and possible.

Sexual harassment may be disciplined when it takes the form of *quid pro quo* harassment, retaliatory harassment, and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- Severe, or
- persistent or pervasive, and
- objectively offensive, such that it:
  - unreasonably interferes with, denies or limits someone's ability to participate in or benefit from associational, educational, and/or employment programs, benefits, and/or opportunities.
  - ATIXA considers stalking, intimate partner violence, sexual violence, and other forms of sex and/or gender-based misconduct to be forms of sexual harassment prohibited under this policy.

### *Quid Pro Quo* Sexual Harassment:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a member having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of an individual's membership status, advancement within the association, or within educational or employment roles.

Sanctions for violation of this policy include censure, warning, probation, suspension, and termination of membership rights. Before disciplining any member, the Equity Officer will consult with the Advisory Board on appropriate sanctions.

## **5. Retaliation**

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Examples of protected activities include alleging harassment, supporting a party bringing an allegation, or assisting in providing information relevant to a claim of harassment. Retaliation is a serious violation of ATIXA policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Equity Officer and will be promptly investigated. ATIXA is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

## **6. Remedial Action**

Upon notice of alleged discrimination, ATIXA will implement initial remedial, responsive, and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination.

ATIXA will maintain as confidential any actions, accommodations, or protective measures taken under this policy, provided confidentiality does not impair ATIXA's ability to address discrimination, provide accommodations, or protective measures. Any public release of information must be authorized by the Equity Officer after consultation with the ATIXA Advisory Board.

## Equity Resolution Process for Allegations of Harassment, Sexual Misconduct, and Other Forms of Discrimination

ATIXA will act on any formal or informal allegation or notice of violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination, that is received by the Equity Officer.

Upon notice to the Equity Officer, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, ATIXA will initiate a private investigation that is thorough, prompt, and fair. The investigation and the subsequent resolution process determines whether the nondiscrimination policy has been violated. If so, ATIXA will promptly implement effective remedies designed to end the discrimination, prevent its recurrence, and address its effects.

As necessary, ATIXA reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed or ATIXA determines it must proceed to protect the interests of the association, and the preliminary inquiry shows that reasonable cause exists, the Equity Officer will conduct or commission a formal investigation and the allegation will be resolved through the finding of that investigation.

Once a formal investigation is commenced, the Equity Officer will provide written notification of the investigation to the responding party at an appropriate time during the investigation. ATIXA aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Equity Officer with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the formal investigation, the Equity Officer determines that there is no reasonable cause to believe that policy has been violated, the process will end.

ATIXA may interim suspend a member pending the completion of ERP investigation and procedures, and/or order appropriate membership restrictions or limitations. Violation of an interim suspension under this policy will be grounds for suspension or termination of membership.

Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence, and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Determine a witness list and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of allegation on the basis of the preliminary inquiry;
- Meet with the reporting party to finalize their statement, if necessary;
- Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;

- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses;
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Share a draft report with the parties and allow them a period of comment before a report is finalized. The investigator may incorporate feedback from the parties as appropriate;
- Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Consult with the Advisory Board on sanctions, if any, then finalize and present the findings to the parties, in writing.

At any point during the investigation, if it is determined there is no reasonable cause to believe that ATIXA policy has been violated, the Equity Officer has authority to terminate the investigation and end resolution proceedings.

Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone or Zoom (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Resolution Process proceedings.

Each party is allowed to have an advisor of their choice present with them for all ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is available and free from conflicts-of-interest. Witnesses cannot also serve as advisors.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. Advisors may not address the investigators and/or Equity Officer in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Equity Officer will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

ATIXA expects that the parties will wish to share documentation related to the allegations with their advisors, but advisors are expected to maintain the privacy of the records shared with them. These records may not be shared by advisors with 3<sup>rd</sup> parties, disclosed publicly, or used for purposes not explicitly authorized by ATIXA. ATIXA may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by these privacy expectations.

ATIXA expects an advisor to adjust their schedule to allow them to attend meetings when scheduled. ATIXA does not typically change scheduled meetings to accommodate an advisor's inability to attend. ATIXA will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process and is not locked into using the same advisor throughout.

The parties must advise the investigator of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with ATIXA policy.

Any evidence that the investigator and/or Equity Officer believes is relevant and credible may be considered, including history and pattern evidence. The Equity Officer may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or improperly prejudicial.

Unless the Equity Officer determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. Neither the Equity Officer nor investigators will meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

The investigation will determine, based on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or Administrative Resolution process. If the responding party admits responsibility, the Equity Officer will render a determination that the individual is in violation of ATIXA policy.

Actions to prevent reoccurrence of inappropriate conduct will be implemented by the Equity Officer to the extent practical and possible, regardless of whether a matter proceeds through investigation/results in a finding of violation.

In implementing this policy, records of all allegations, investigations, and resolutions will be kept by the Equity Officer indefinitely.

These policies and procedures will be reviewed and updated annually by the Equity Officer. ATIXA reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Equity Officer may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. The Equity Officer may also vary procedures materially with notice (on the ATIXA website, with appropriate date of effect identified).

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies generally.

This policy and procedure was implemented on April 8<sup>th</sup>, 2016 after ratification by the ATIXA Advisory Board.