

NAR Insurance Program

QUARTERLY RISK REPORT

Q2 2022

*The **Quarterly Insurance Trend Report** is now the **Quarterly Risk Report**, highlighting issues that pose risk to associations and providing resources to help associations build knowledge, incorporate best practices, and avoid claims.*

IN THE SPOTLIGHT: PREVENTING AND ADDRESSING SEXUAL HARASSMENT

Employment practices liability (EPL) claims comprised the most claims filed by associations in the second quarter, with the majority of those claims involving sexual harassment. It's important to understand sexual harassment covers a broad range of behaviors which can be intentional or unintentional and overt or subtle. Through a clear antiharassment policy, training and awareness, associations can ensure an environment free of harassment. Employees and volunteers must know that your association has zero-tolerance policy wherein which every complaint is taken seriously and promptly addressed.

Sexual harassment includes verbal and nonverbal conduct including sexual jokes, innuendos, or propositions, as well as leering and the display of sexually suggestive objects or pictures. It can be in person or over the internet, including social media or email. Also, federal law establishes that sexual harassment occurs through unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made a term or condition of employment; or
- Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting the individual; or

CLAIMS REPORTED: 18

(10 active demands/lawsuits and 8 potential claims)

- 7 Employment
- 3 Antitrust
- 2 Membership Issues
- 1 Professional Standards
- 1 Copyright
- 1 Data Privacy
- 3 Other

Subject to certain conditions, the NAR Insurance Program provides professional liability and limited patent coverage to all eligible associations, affiliates, and MLSs.

- 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.

Sexual harassment includes various forms of offensive behavior based on sex; the victim can be of the same or opposite sex.

The NAR Professional Liability Policy covers legal proceedings for sexual harassment claims, but does not cover internal harassment investigations.

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BEST PRACTICES

Harassment is illegal under both federal and state law, and associations have a legal responsibility to maintain an environment free from harassment. To fulfill this legal obligation and reduce liability, keep these tips in mind:

- Be familiar with federal, state and local harassment laws to understand the association's legal obligations, including any training requirements and other affirmative duties.
 - Be sure to have an anti-harassment policy for employees.
 - Be sure to establish an [anti-harassment policy for volunteer leaders](#) and members that articulates expectations and a process for investigating and resolving complaints.
 - Be sure the anti-harassment policies include a "no-retaliation statement" to communicate that there will be no negative consequence for good-faith reports of harassment.
 - Conduct regular sexual harassment prevention training for employees and volunteer leaders.
 - Consider adding regular bystander training for employees and volunteer leaders, which empowers them to intercede when they witness a person being subjected to inappropriate behavior.
- Make clear to employees how to make a complaint; make an [internal complaint form available](#) as an option to report incidents, and consider allowing for anonymous complaints.
 - Promptly investigate all complaints of harassment.

REMINDER

Some states and localities impose **additional requirements on employers**. For example, the City of Chicago requires employers to provide one hour of sexual harassment prevention for all employees (2 hours for supervisors and one hour of bystander training for all employees).

A great place to find out what is required by your state and locality is the State Reference page on the [EPL Assist™](#) website.

(Note: You must [register](#) for the website to access the resources.)

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RESOURCES

[Good Sense Governance: Harassment](#)

[Best Practices for Conducting Internal Harassment Investigations](#)

[Sample Anti-Harassment Policy](#)

[NAR Code of Conduct and Sample Harassment Policy](#)

Video:
[Preventing Sexual Harassment](#)

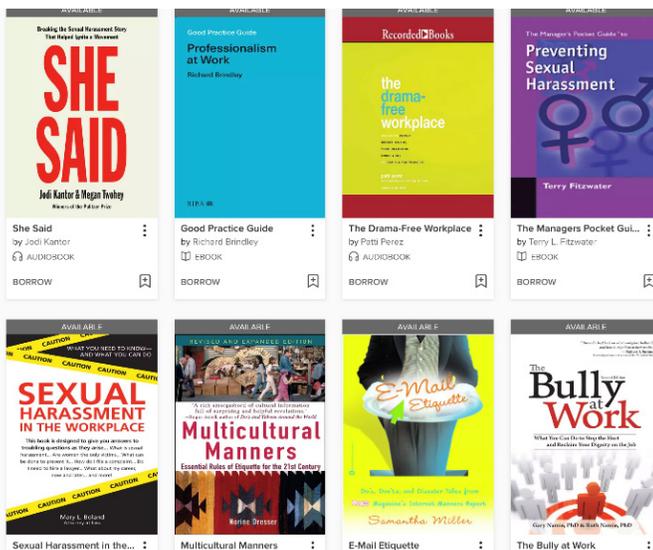
NEED HR HELP? CALL SAM

The [Strategic Association Management](#) team is a full-service team of experienced HR professionals ready to help associations with their HR needs. **SAM** is here to help you with [proactive HR strategies](#) that create great cultures and to assist with best practices for reactive situations to mitigate risk. The SAM team understands the unique HR challenges associations face—especially in this unprecedented time of rapid change—and are wholly invested in your success.

Contact:
Carole Kaptur
ckaptur@nar.realtor | (312)329.8311
or **Kelsi Dunn**
kdunn@nar.realtor | (312)329.8518

WORKPLACE HARASSMENT & PROFESSIONALISM EBOOK COLLECTION

The NAR Library & Archives has compiled a [collection of both eBooks and audiobooks](#) that deal with harassment, sexual harassment, and maintaining professionalism in the workplace. These topics can be difficult to address, but these titles will help you tackle these difficult issues to ensure a positive and productive workplace for all.



To access these eBooks and the entire NAR library collection, log in to [NAR's eBooks site](#) using your NAR Member ID. Be sure to select "National Association of REALTORS®" as your primary library in the drop-down menu on the sign-in page.

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EPL TIP

What's the first thing an employer should do when it receives a sexual harassment complaint?

1. Start with any immediate triage issues, such as physical safety issues or calling law enforcement if needed.
2. Gather as much information as possible from the complaining party.
3. Conduct a prompt and thorough investigation, following the protocol in your harassment policy. Give the responding party a full and fair opportunity to respond before taking any employment actions.

This employment practices tip, and dozens more, are available to you on the [EPL Assist™](#) website. Be sure to take advantage of this [valuable benefit](#), which provides policy templates, sample documents, risk management resources, and advice and counsel on common employment law issues facing associations.

COVERAGE CORNER

ADDRESSING COMMON POLICY QUESTIONS

Q: *Is there coverage for government investigations or other agency proceedings?*

A: **Yes.** Defense coverage is available for any official investigation undertaken by a governmental agency through requests for documents or information. In addition, the policy covers the defense of agency investigations (antitrust investigations, EEOC claims, fair housing agencies, etc.). The policy does not provide coverage for investigations of unpaid taxes by the IRS or a state agency.

Have coverage questions?

Check out these [Professional Liability Policy FAQs](#).



RISK MANAGEMENT WEBINAR

CYBERSECURITY: RISKS AND OPPORTUNITIES FOR ASSOCIATIONS

SEPTEMBER 14 | 2:00 PM CT

[REGISTER NOW!](#)