

DIVERSE AND INCLUSIVE COMMUNITIES GUIDE

HOW TO PROMOTE DIVERSITY
AND PREVENT DISCRIMINATION



Community Associations Institute (CAI) stands for equality and justice in America, throughout the world, and at home in our own communities. We have work to do.

Creating Harmony in Diverse Communities, a report released by the Foundation for Community Association Research, finds that roughly half of the almost 700 community association managers (53%) responding to a recent national survey say they're aware of at least one diversity or discrimination complaint. And while only 1% of more than 300 residents report having an outstanding claim against the community association for discrimination, even one complaint is too many.



CAI's mission of building better communities—those that promote togetherness, neighborliness, belonging, and connection—cannot be achieved while residents feel uncomfortable or are treated differently because of race, color, religion, sex, familial status, national origin, gender identity, sexual orientation, or disability.

The Foundation for Community Association Research reports that the most common procedures currently in place to handle discrimination complaints are a review by the board and a hand-off to legal counsel. The vast majority of the association managers report no procedures in place to handle diversity complaints, and two-thirds of the residents say there is no board member training to address issues of discrimination.

CAI is committed to developing training and education that addresses the shortcomings identified in [Creating Harmony in Diverse Communities](#). As recommended by the Foundation, CAI will work to help community association board members, managers, and business partners:

- Establish formal procedures for handling diversity and discrimination issues in associations.
- Promote the importance for continuing active social programs and communications for reducing complaints.
- Provide education on relevant state and federal laws on diversity and discrimination issues as well as emerging changes in the way courts are handling these issues.
- Encourage board training on diversity and discrimination issue management and on how to handle resident-to-resident complaints and complaints to the board.

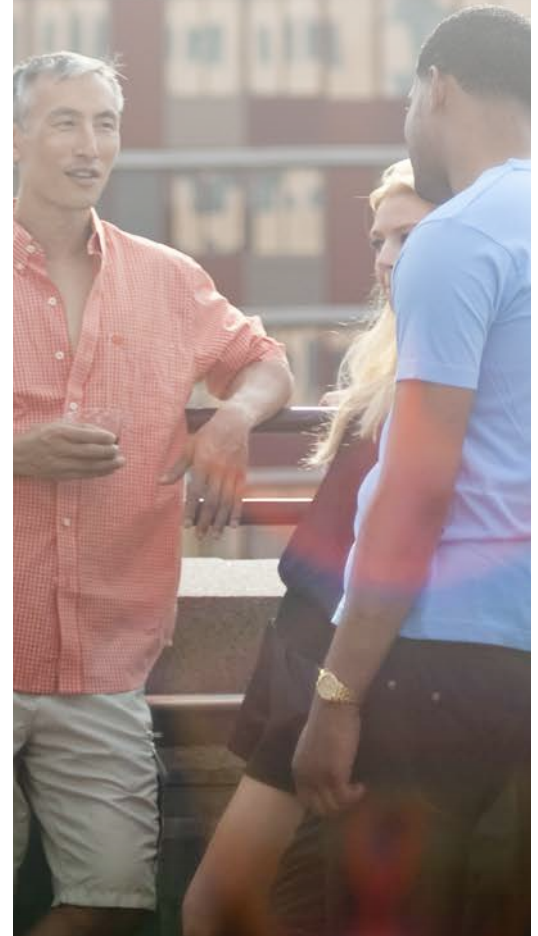
CAI believes that promoting diversity and preventing discrimination requires a multifaceted and ongoing approach. We also recognize that we do not have all of the resources on the subject.

The materials included in this guide are a start. CAI will do its part to help all achieve the promise of America: life, liberty, and the pursuit of happiness. And we will do our part to ensure community associations connect with their residents on diversity and inclusion while promoting harmony, belonging, responsible citizenship, and effective leadership.

LEGAL DISCLAIMER: This document was developed by Community Associations Institute (CAI). Community associations are governed by state law, which can vary widely from state to state. Please note that the content contained in this document is intended to be used for general educational and informational purposes only. Although we try to keep the information contained in these documents up to date, it may not reflect the most recent developments, and it may contain errors or omissions. CAI has not compared or reviewed this document relative to the law in any state and does not warrant or guarantee that the contents of this document comply with the applicable law of your state. The contents of this document are not intended to be a substitute for obtaining advice from a lawyer, community manager, accountant, insurance agent, reserve professional, lender, or any other professional. Community associations should seek the advice of relevant experts before taking any actions.

WHAT'S INSIDE:

- Equality pledge
- Nondiscrimination policy
- Harassment education and policy
- Harassment or discrimination claim policy for association representatives
- CAI's additional resources
- Recommended reading



COMMUNITY ASSOCIATION EQUALITY PLEDGE

To overcome discrimination in community associations, we must adopt and practice behaviors that eliminate bias and inequality in our own organizations, and then we must educate ourselves on how to adopt and practice those behaviors in our communities. By being deliberate with these behaviors, we will have the tools necessary to shape minds and refine character to serve as role models for their communities in the pursuit of equality. CAI encourages community associations to commit to the behaviors outlined below.

Our community supports and will foster the following leadership behaviors that support equality:

- ① **COURAGE.** We will take actions and make decisions that support equality.
- ② **INTEGRITY.** We will stand for equality as a core value and never compromise in situational challenges and policymaking.
- ③ **INTOLERANCE.** We will be an ally, and we will be intolerant of others who are not mindful of equality and call them out (gently and with tact) when they behave inappropriately.
- ④ **SELF-AWARENESS.** We will be aware of our own biases and the effect that they have on equality. We will take responsibility for increasing understanding of our own privileges and prejudices.
- ⑤ **SELF-REGULATION.** We will maintain control over our own decisions and actions in the matter of equality.
- ⑥ **MOTIVATION.** We will pursue equality with energy and persistence and relentlessly challenge its achievement in the community. We will intentionally and deliberately engage in nonbiasing activities. We will educate ourselves, and we will engage in conversations about race.
- ⑦ **EMPATHY.** We will understand how inequality affects community members emotionally; treat the victimized compassionately; and appreciate that people have unique mindsets that affect their perception of inequality.
- ⑧ **SOCIABILITY.** We will manage relationships to establish a common ground of equality in the community.



How to adopt the equality pledge in your community:

- ① **DISTRIBUTE** the document throughout your community, announcing and publicizing where and when the adoption will be considered.
 - ② **EXPLAIN** why this is important to your community and the benefits it can create.
 - ③ **REVIEW AND DISCUSS** the merits of the principles at an open meeting of your board of directors.
 - ④ **SOLICIT INPUT** from homeowners.
 - ⑤ **HOLD A BOARD VOTE** to adopt a resolution endorsing the Community Association Equality Pledge.
 - ⑥ **SHARE THE NEWS** of adopting the Community Association Equality Pledge throughout your community regularly. Post on your website, social media, and on every community association meeting agenda.
 - ⑦ **TELL CAI** that you've adopted the Community Association Equality Pledge.
- ↓ *Download and adopt CAI's Community Association Equality Pledge by visiting www.caionline.org/EqualityPledge.*

In addition to committing to equality, CAI believes community associations should adopt a policy that prevents discrimination in policy and practice.

COMMUNITY ASSOCIATION NONDISCRIMINATION POLICY*

The following resolution is adopted by the community association board of directors:

- ① The officers, directors, committee members, and any agent of the association, including, but not limited to, management, shall not discriminate in the enjoyment of services, amenities, privileges, and other conditions against any member, resident, or guest on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, familial status, or disability.
- ② The association is committed to providing an inclusive and welcome environment for all members, residents, and guests. The association shall demonstrate inclusivity at its meetings, in its communications, in providing services and amenities, and at its community events and activities. The association shall foster an environment of diversity throughout the community.
- ③ The association shall respond to requests for reasonable modifications and reasonable accommodations for members and residents who have a disability in a prompt and timely manner.
- ④ If a member, resident, or guest feels that he or she has been discriminated against or harassed on the basis of his or her race, color, religion, sex, sexual orientation, gender identity, national origin, familial status, or disability, he or she should immediately report the matter to management. If that person is not available or the individual feels that it would be unproductive to inform that person, he or she should immediately contact the president or member of the board of directors. Once the matter has been reported, it will be promptly investigated and any necessary corrective action will be taken where appropriate. All complaints of unlawful discrimination or harassment will be handled in as discreet and confidential manner as is possible under the circumstances.
- ⑤ This resolution shall not affect any other covenant, condition, restriction, or other rule set forth in the association's governing documents.

This policy is effective on [insert date here].

Adopted by the board of directors at a duly called meeting at which a quorum was present.

DATE

SECRETARY

*Consult with your community association attorney.

Community Association RESPONSIBILITY for NEIGHBOR to NEIGHBOR Harassment

In 2016, the U.S. Department of Housing and Urban Development (HUD) published a final rule entitled, **"Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices Under the Fair Housing Act."** HUD's intent was to "provide for uniform treatment of Fair Housing Act claims in judicial and administrative forums." Pursuant to the rule, a housing provider is directly liable for the illegal, discriminatory practices of a third party if the provider:

- (1) knew or should have known of the discriminatory housing practice;
- (2) had the power to correct the discriminatory housing practice; and,
- (3) failed to take prompt action to end such practice.

A housing provider's authority to end a discriminatory practice is deemed a function of the provider's control over the discriminating third party and any legal obligation the provider may have to end the practice. Community associations are considered housing providers under the Fair Housing Act. Therefore, community associations are directly liable for illegal, discriminatory practices of a third party based on the above three conditions.

In 2018, CAI's Federal Legislative Action Committee drafted a white paper raising critical concerns and requesting guidance and clarification from HUD.

CAI respectfully requested that:

- ▶ HUD reaffirm, through a revision of the rule, that a community association only be liable for a third party's hostile actions when it is proven that there was an intent to discriminate by the association.
- ▶ HUD provide written, legal guidance for community associations to ensure compliance with the rule.

As CAI continues the conversation with HUD, we will keep community association board members, managers, and business partners apprised of additional guidance.

» Read [CAI's white paper to HUD](#) on community associations and third party harassment.



STEPS TO HANDLE Harassment Complaints

When confronted with a harassment complaint in a community association, boards and management should consult legal counsel to discuss ways to follow these practical steps to manage the issue:

Training for Community Association Personnel and Agents

- Hold board training regarding Fair Housing Act compliance.
- Update the association's employee handbook and volunteer policies to prohibit discrimination and harassment against residents under the Fair Housing Act.
- Conduct separate training for association volunteers, employees, and agents on anti-harassment issues under the Fair Housing Act.
- Require community association contractors to agree in their contracts that the association has the right to terminate the contract if in the association's judgment the contractor unlawfully harasses a resident.
- Require that the contractor agree to comply with all applicable laws, including the Fair Housing Act.
- Consider providing the contractor an educational pamphlet setting forth the contractor's anti-discrimination and anti-harassment obligations.
- Require the contractor, when feasible, to indemnify the association for any fair housing claims arising out of the contractor's (or its agent's) acts.

Harassment-Reporting Policies and Resident Training

- Encourage boards to adopt a harassment-reporting policy for residents to report third-party harassment under the Fair Housing Act. This decision should be made after much deliberation and consultation.
- If the association decides to adopt a harassment-reporting policy for third-party harassment claims, the association should provide annual training on what constitutes actionable harassment and how residents should comply with the policy.
- If authorized by state law, condominium associations should consider adopting rules requiring landlord owners to comply with the Fair Housing Act and ensure that their tenants do the same. Condominium associations also should consider adopting restrictions providing for the association's authority to step into the shoes of the landlord owner and terminate the lease if the tenant unlawfully harasses another resident.

Evaluate Current Authority and Adjust as Advisable

- Evaluate and advise on the association's authority to address harassment by a resident or third party.

Response Plan

- Prepare to address residents' harassment complaints. The association's response plan will likely depend on whether the alleged harasser is an association agent, employee, or a third party.

HANDLING RESIDENT HARASSMENT OR DISCRIMINATION CLAIMS*

Community associations may consider adopting the following policy and asking any board member, community association manager, or staff member who communicates with any resident in any manner to review and sign the policy.

When you are communicating with a resident on any issue in which claims of harassment or discrimination are made by the resident, no matter who the claim is against or what it is about, that claim must be documented, communicated to the manager, the board, and also the association's legal counsel.

This includes communicating with residents about assessments, violations, work orders, architectural review applications, and complaints from one resident about another. Any communication that uses the words "discrimination" or "harassment" should be documented and shared with the appropriate community leaders.

Conversation notes with the resident should be added to the homeowner's account. Those notes should be shared in an email with the manager, who will document the claim and email the association's attorney using the following template:

Subject line: Harassment/discrimination claim

Email body:

We have received a claim of harassment/discrimination from a resident, and we need your guidance on how to legally respond to this claim: (insert communications notes)

If the claim involves a pending violation, the email to the attorney will be framed differently:

We have received a claim of harassment/discrimination from a resident regarding a pending violation. We need your guidance on how to legally respond to this claim and if we should pause or cease the violation/hearing process: (insert communications notes)

Once you've emailed the attorney, print the email, place in your board packet folder, and include on the next meeting agenda. If you receive any response from the attorney, include it in the same manner.

I have received and read this policy, and I understand what to do when claims of discrimination or harassment are made. I also understand that this and other policies are confidential information and will not be shared with anyone outside of the community.

PRINT NAME

SIGNED

DATE

**Consult with your community association attorney.*

ADDITIONAL RESOURCES

CAI public policy: Amendment process to remove discriminatory restrictive covenants. CAI supports a process by which a governing board of a community association may remove antiquated and unenforceable discriminatory restrictions contained in covenants without a vote of the owners. CAI advocates the adoption of state legislation that provides for a process to allow for the removal of restrictions deemed to be discriminatory under the federal Fair Housing Act and/or state anti-discrimination laws.

CAI public policy: Fair housing. CAI supports the right of all individuals to be free from illegal discrimination on the basis of race, color, religion, sex, familial status, national origin, gender identity, sexual orientation, or disability. CAI also supports the right of community associations to enforce their covenants, bylaws and rules, provided they do not illegally discriminate against any protected class.

Civility Pledge. Community association boards should use this framework to lead their communities through conversations about difficult and complex issues and harmonizing feedback from residents resulting in decisions that are informed and well balanced for the community as a whole.

Building Community. A guide for building stronger, more active, more caring communities through planning, community spirit, and good governance.

Best Practices: Community Spirit. How do managers and boards increase resident involvement within community associations? By treating all residents as stakeholders and developing and conducting community harmony and spirit-enhancing programs and including residents in the initial stages of program development. This Best Practices Report, published by the Foundation for Community Association Research, includes performance benchmarks for how to build community as well as case studies that illustrate the implementation of those benchmarks in real communities.

Communications: How Community Associations Stay in Touch. A comprehensive, proactive communications program will contribute to productive meetings, satisfied homeowners, balanced budgets, informed consultants, supportive residents, cooperative tenants, eager buyers, low delinquencies—and more. Find out how with this guide to communicating effectively.

Creating Harmony in Diverse Communities. The Foundation for Community Association Research report that examines the extent of discrimination claims in community associations and suggests ways in which condominiums, homeowners associations, and housing cooperatives can prevent and respond to complaints.

RECOMMENDED READING

Racial microaggressions in everyday life. Racial microaggressions are brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults toward people of color. Perpetrators of microaggressions are often unaware that they engage in such communications when they interact with racial/ethnic minorities. *American Psychological Association.*

How to shift your communication to build trust and inclusion. In times of unprecedented uncertainty and division, association leaders must choose their words carefully to build inclusion, empathy, and trust. *American Society of Association Executives.*

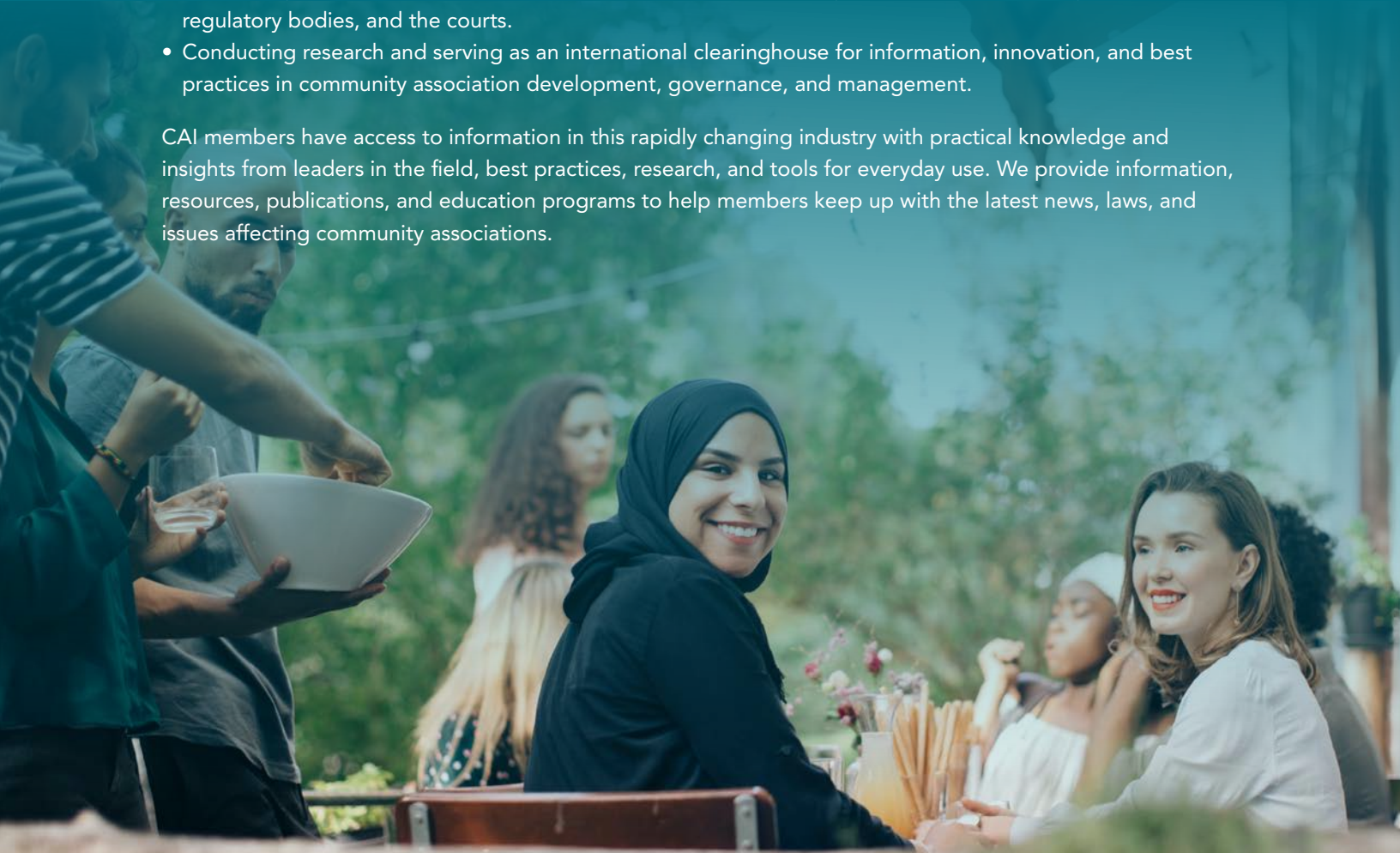
When it comes to hiring, now is the time to rethink your diversity, equity, and inclusion strategy. Wherever your organization finds itself with respect to diversity, equity, and inclusion (DEI), now's a good time to re-evaluate things. Unless a commitment to DEI is worked fully into your strategy, carrying throughout everything your organization does, you're not doing enough. And that work begins at the top, with how you recruit. *Harvard Business Publishing.*

CAI believes community associations should strive to exceed the expectations of their residents. We work toward this goal by identifying and meeting the evolving needs of the professionals and volunteers who serve associations, by being a trusted forum for the collaborative exchange of knowledge and information, and by helping our members learn, achieve and excel in their communities. Our mission is to inspire professionalism, effective leadership, and responsible citizenship—ideals reflected in associations that are preferred places to call home.

CAI serves community associations and homeowners by:

- Advancing excellence through seminars, workshops, conferences, and education programs, most of which lead to professional designations for community association managers and other industry professionals.
- Publishing the largest collection of resources available on community association management and governance, including website content, books, guides, *Common Ground*[™] magazine, and specialized newsletters.
- Advocating on behalf of common interest communities and industry professionals before legislatures, regulatory bodies, and the courts.
- Conducting research and serving as an international clearinghouse for information, innovation, and best practices in community association development, governance, and management.

CAI members have access to information in this rapidly changing industry with practical knowledge and insights from leaders in the field, best practices, research, and tools for everyday use. We provide information, resources, publications, and education programs to help members keep up with the latest news, laws, and issues affecting community associations.



ABOUT DIVERSE AND INCLUSIVE COMMUNITIES GUIDE

This guide was adapted in part from materials presented at the 2021 Community Association Law Seminar. CAI thanks **Leah K. Burton, esq.**, of Roberts Markel Weinberg Butler Hailey PC in San Antonio, **Noelle Hicks, esq.**, of Roberts Markel Weinberg Butler Hailey PC in San Antonio, and **Wil Washington, esq.**, of Chadwick, Washington, Moriarty, Elmore & Bunn PC in Fairfax, Va., for their materials related to the equality pledge and third-party harassment. The equality pledge was adapted in part from *Becoming a Leader: Nine Elements of Leadership Mastery* by **Al Bolea** and **Leanne Atwater**. CAI also thanks **Drew R. Mulhare, CMCA, AMS, LSM, PCAM**, of Ford's Colony at Williamsburg Homeowners Association in Williamsburg, Va., and **Susan B. Tarley, esq.**, of Tarley Robinson PLC in Williamsburg, for their materials related to the nondiscrimination policy. **Mark Jones, PCAM**, of the Avalon Management Group, AAMC, in Canyon Lake, Calif., contributed the basis of the association representative policy on handling resident claims.



6402 Arlington Blvd., Suite 500
Falls Church, VA 22042
(888) 224-4321

www.caionline.org



caisocial



Community Associations Institute



@CAISocial and @CAIAdvocacy



@CAISocial

#WeAreCAI