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# Code of conduct self-led training

— Last updated 2023-10-25 —  
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Mary Gardiner

# This is a self-led training

Assumes you already have a code of conduct committee

Work through them together as a committee

Change these slides as much as you want

Questions? All these topics are discussed in detail under easily findable headings in a free ebook:

<https://frameshiftconsulting.com/resources/code-of-conduct-book/>

# Outline

Code of conduct basics

Preparing to enforce a code of conduct

Taking reports of violations

Responding to reports

Discussion of example scenarios

# Disclaimers

**This is not legal advice; use your best judgment**

Organizational rules, laws, etc. override this training

This training contains brief mentions of physical assault, sexual assault, racism, violence, and other forms of oppressive language and behavior

# Terminology

Code of conduct/policy

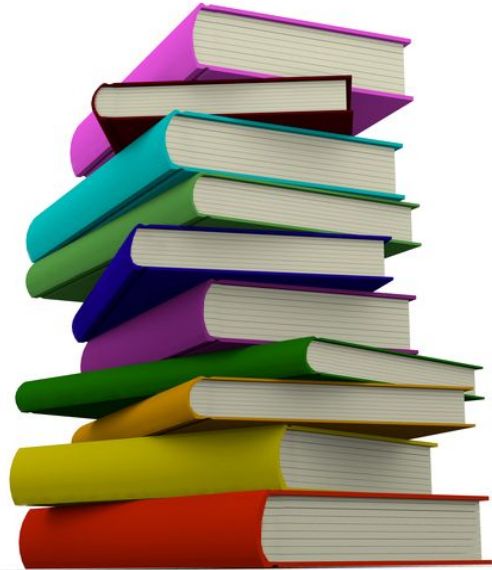
Events/spaces/community

Perpetrator/harasser

Target/victim

Incident/violation/harassment

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# Code of conduct basics

The purpose of a code of conduct is to **protect members of your community from harm by other members of your community**

Mostly exists to defend the less powerful from the more powerful, who are already protected by their power

Cannot enforce behavior of people outside your community or people in spaces you don't control

# Incidents that happen outside your spaces

Your goal is to **protect your community from future harm**

You most certainly may and should use information about someone's behavior outside the spaces you control to decide whether to allow them in your spaces

# How a code of conduct works

Education

Norm-following

Attraction/repulsion

Deterrence

Boundary setting

# Visible enforcement is required

People want secret enforcement to avoid drawing attention to themselves or others

If no one sees the consequences of violating the code of conduct, more people will violate the code of conduct

Impossible to set norms secretly or without embarrassing people occasionally

# **Enforcing a code of conduct is NOT about:**

Punishing people for their crimes

Satisfying the targets or victims of abuse

Smoothing over conflict or mediating between people

Restorative or transformative justice

# Why not transformative justice?

Transformative justice derives from an alternative to **unfair state violence** against **offenders who are members of marginalized groups**

CoC offenders are usually the opposite: powerful people harming members of marginalized groups

Offenders have more resources and motivation to stay than targets, who usually just leave

## Why not transformative justice? (cont'd)

Transformative justice tries to retain members of communities at all costs, but in this context communities are usually better off without the offenders

Offenders are more likely to be talented manipulators and easily hijack the process to help them hurt others

Amateurs trying to implement restorative justice often re-victimize the targets

# Recusal

When a member of the committee is personally involved in a report, they should recuse themselves

This includes: they are the specific target, the alleged harasser, or have some close relationship with either

Don't recuse if e.g. the whole committee was present for a talk that violated the code of conduct or similar situation

# What recusal means

Once you have recused yourself, you should not have access to or input on the report handling process

Don't go to meetings about it

Don't read or send emails

Remove yourself from any documents or records

Don't talk about it with other committee members

# Choosing committee members

Include several people with significant experience as the target of harassment

Include at least one person who is widely respected and powerful within the community

Do NOT include anyone who has doubts about the concept of a code of conduct, or disagrees with current code of conduct, or is squeamish about enforcing it

# Committee communication

Set up communication in advance: Signal group, mailing list, chat channel, etc.

Have a plan for when a committee member needs to recuse themselves

Share your contact info with each other (Google Doc, etc.)

Figure out how you will make public communications on Twitter, community blog, announcement list, etc.

# Record keeping

So you banned someone from the conference... when do you check your list of banned people? At registration? At the door?

You warned someone if they repeat the behavior you will sanction them... who checks for previous warnings and when?

Someone sanctioned last year volunteers to help at the new attendee welcome booth... who says no?

# Record keeping

Keep a written record of all reports, even if you decide not to take action

Decide who has access to them

Decide how long to keep them

Formalize checking the records at important points (online registration, at check-in, during code of conduct committee deliberations)

# Written incident response guide

Use a written incident response guide to respond to incidents

Don't share it publicly - people will act like it is law and argue if you deviate from it

It doesn't need to lay out all the details, just give you something to guide your actions when you are stressed

# Updating your code of conduct

About once a year, review your code of conduct and update it

Use input from community, actual incidents, what harassers said they didn't understand

Don't water it down, you should mostly be clarifying, adding new items, or adding detail

# Optional reading for committee members

[http://geekfeminism.wikia.com/wiki/Timeline of incidents](http://geekfeminism.wikia.com/wiki/Timeline_of_incidents)

[http://geekfeminism.wikia.com/wiki/Conference anti-harassment/](http://geekfeminism.wikia.com/wiki/Conference_anti-harassment/)

<https://frameshiftconsulting.com/resources/code-of-conduct-book/>

# Taking reports

Train anyone who needs to take reports

<https://frameshiftconsulting.com/resources/code-of-conduct-book/#video>

Early on in a report, make sure they understand that you will take this to the committee and give them a chance to withdraw their report (neutrally)

Find a quiet place and write it down

# What to ask for in a report

Ask for, but don't pressure if they don't want to share:

- Identifying information for the alleged harasser
- Reporter's name
- Time and date
- Place
- What happened
- Any other people involved

# Things not to do

Don't pressure them NOT to report

Don't guarantee any kind of response or action

Don't ask them for solutions or ideas on what to do

Don't pressure them to contact law enforcement (if there is physical danger now, do it yourself)

# Immediate care for the reporter

If appropriate:

Offer them a private safe space to sit

Ask if there is a trusted person they want with them, and send someone else to fetch that person

Ask, "Is there anything that will make you feel safer that I can help with?"

# Initial evaluation

If the person taking the report sees an immediate threat to physical well-being:

Escalate immediately to appropriate person (other conference staff, manager, security manager, HR)

Call security or law enforcement as appropriate (only in cases of immediate physical threat, otherwise only at request of reporter)

# Transfer to code of conduct committee

Let the reporter know that the report is going to the committee

For public incidents widely witnessed, make some kind of announcement that you are investigating and planning your response

Committee should convene ASAP using communication plan established in incident response plan

# Preparation for the meeting

Delegate someone to ask the alleged harasser for their version of events and write it down for use in the meeting

If other witnesses were present, delegate someone to interview them and write down their responses

If appropriate, ask around for similar experiences with the alleged harasser in case they have not been reported yet

Check your records for related reports

# Committee deliberations

In the meeting, discuss:

What happened?

What are we going to do about it?

Who will do it?

When will they do it?

Stick to your deadline for deciding on a response

# Committee deliberations

Neither reporter nor alleged harasser should be present (if they are part of the committee, recuse themselves)

Your overriding goal and purpose is to protect the community from harm in the future

If at all possible, protect the reporter from retaliation

If these goals conflict, be creative and willing to lie

# Al Capone Theory of Sexual Harassment

Credit: Valerie Aurora and Leigh Honeywell

When someone feels entitled to another person's body, they also often feel entitled to other people's money and work

Investigate for other things they've done: lied on expense reports, plagiarized other people's work, taken credit for other people's work, embezzled money, harassed or threatened other people

# Conflicting reports - "he said, she said"

Alleged harasser says they didn't do it, alleged target was only witness: what to do?

Consider relative risk of reporting: a more marginalized person is less likely to make false report

Al Capone theory: go ask for past history on harasser, often **they have harassed your own staff repeatedly**

# Competing claims of marginalization

Level of marginalization is a useful clue, but not how you decide who is telling the truth

Avoid "Oppression Olympics" - arguing about which marginalized person/group has it worse

Overall, your code of conduct should have the effect of protecting more marginalized people, not more privileged

# False claims of marginalization

Start with facts: sexism and racism have not been reversed yet anywhere in the world

Bigoted beliefs do not make someone a marginalized person (e.g. "I'm marginalized because I believe women are inferior")

Paradox of Tolerance: a tolerant society must be intolerant of one thing, intolerance itself

# Proportionality of response

People feel a response is unjust if it seems out of proportion to the original offense

Example: A speaker is making inappropriate jokes

10 people watching: interrupting seems reasonable

1000 people watching: interrupting seems out of proportion to the offense

Lesson: Screen keynote speakers well!

# Proportionality of response

Any action by the Code of Conduct Committee is seen as much stronger based on the power of the source

Often not naming the harasser (but giving enough detail that people know what happened) seems proportionate

Avoid naming the target of harassment if at all possible

Read "Is Shame Necessary?" by Jennifer Jacquet

# Potential responses

- Nothing
- Have a chat with them
- Give them a warning (next time X will happen)
- End a talk early
- Take down videos of talk
- Remove responsibilities
- Temporary ban
- Permanent ban

# Contacting their employer

It may be appropriate to inform their employer, especially if someone is representing their employer at the time of the incident

You may wish to sanction the employer as well as the employee if the employer don't respond appropriately

Example: not allowed to sponsor, not allowed to present, not allowed to attend

# People who enable harassment

Serial harassers often have a group of people and/or organizations who enabled them

Those who had the choice of whether to enable the harasser and chose to do so so are likely to do it again

You can and should create consequences for them enabling harassers (not allowed to attend, speak, etc.)

# Do not require or ask for apologies

Do not ask the harasser to apologize (they can apologize if they want, which may guide the response)

Do not ask the reporter to receive an apology

Communicate any apology as a piece of useful information, neutrally and briefly

Attempts to apologize may be a disguise for further harassment and should be treated this way

## Other responses not to use

Do not mediate between target and harasser

Do not assign people to guard the harasser

Do not allow the harasser to remain but require them to stay away from the target physically

Do not allow someone to stay in the community if they refuse to follow the code of conduct

## Inform the reporter and alleged harasser

Check in with the reporter before announcing your decision, not for approval but in case you missed something critical

Someone should directly tell the alleged harasser the decision

If the alleged harasser wants to appeal the decision in any way, make it clear the response stands (e.g., if they have been kicked out of the event, they must leave now)

# Communicate the response

At minimum, everyone who is aware of the original incident should be aware of the response

Err on the side of informing more people

At a conference, make some announcement at the next plenary session (or announcement list if there isn't one)

Give enough detail that people can use the information to guide their future behavior

## Level of detail

Usually, do not name people involved even if their names are well-known (helps with proportionality)

Give an idea of the nature of the incident (e.g., a pornographic slide, racist joke on panel, etc.)

Briefly describe the sanction

Briefly, neutrally mention any apology/action from harasser

# Responding to criticism of your response

Include a private channel for feedback in your announcement (group email, web form, etc.)

Do not get into face-to-face discussions about response

Discussions on community forums about codes of conduct are often themselves harassing and should be avoided or redirected to other forums whenever possible

Do not share additional details of the incident

# Responding to criticism of your response

Useful phrases:

"I'm sorry, I can't speak about this."

"Please contact [public feedback channel]."

"Please contact [conference director]."

Use Charles' Rules of Argument

# Charles' Rules of Argument for CoC committees

1. Make a statement on the incident and response
2. Wait for complaints, questions, outraged responses
3. Make ONE MORE statement to clarify
4. Do not respond again

[http://geekfeminism.wikia.com/wiki/Charles' Rules of Argument](http://geekfeminism.wikia.com/wiki/Charles'_Rules_of_Argument)

# Don't JADE

After the initial announcement and one clarifying follow-up, Don't Justify, Argue, Deny, or Explain

Each of these just gives critics more things to attack and makes mistakes more likely

They exhaust you and waste everyone's time

Defamation lawsuits often use JADE statements

# If you think they might try legal action

When in doubt, say nothing and get legal advice

Take care in making statements about disciplinary actions and avoid “dual meaning statements”

Additional statements to defend organization or satisfy "the community" rarely work and increase legal exposure

## Example scenario

An attendee reports that they overheard another attendee repeatedly and strongly deny the existence of racism while chatting with other attendees at the conference opening party. Your code of conduct bans racist comments.

# Questions

1. Are these statements racist?
2. Do they break the code of conduct?
3. What would prevent harm to the community going forward?

# Answers

1. Are these statements racist? **YES**
2. Do they break the code of conduct? **YES**
3. What would prevent harm to the community going forward? **Taking steps to prevent this person from expressing racist ideas or acting racist ways in your community, and informing the rest of your community of your response**

## What you should do

Immediately remove them from conference spaces while discussing what to do

Focus on protecting your community from racism

Ask the offender if they will stop the behavior going forward

Find more information about offender's past actions

# What you should not do

Try to convince the offender that racism is real

Ask the offender to apologize

Allow the offender to stay in community spaces while they intend to keep breaking the code of conduct

Have a long argument in community spaces about whether denying the existence of racism is racism

## What happened in this case

The offender was initially insistent that he would keep sharing his racist ideas in the community

After he was informed that he could not attend the party that night, he was deeply upset to be missing out

He quickly apologized and agreed not to share his racist opinions in the community and obey the code of conduct

## What happened in this case

The community leader had a long, in-depth, one-on-one discussion with the offender about the seriousness of this code of conduct violation

The offender was allowed to return to the event and obeyed the code of conduct from then on

Community leaders paid close attention to the offender's behavior thereafter

## Example scenario

A well-known advocate for diversity and inclusion is taking part in a discussion about race, and comments, "Which is why white people are so bad at talking about race."

Another attendee, who is publicly opposed to codes of conduct, reports her for making a racist comment. This takes place in a culture where white people are the dominant racial group.

# Questions

1. Can someone be racist against the dominant racial group?
2. Can we make progress on racism without discussing the need for increased education on the part of the dominant racial group?
3. What are the histories of behavior of the reporter and offender?

# Answers

1. Can someone be racist against the dominant racial group? **NO** (but can be rude or wrong or mean)
2. Can we make progress on racism without discussing the need for increased education on the part of the dominant racial group? **NO**
3. What are the histories of behavior of the reporter and offender? **Reporter: working against community being safer, offender: working to improve safety**

## What you should do

Affirm that making generalizing statements about the average skills of the dominant racial group is not racism

Warn the reporter not to make similar reports again

Reject the report without further investigation or action

Include the dismissal of the report and your reasons why in the final event report

## Example scenario

A well-known speaker in your field gets drunk at a party and makes a sexually suggestive comment to a less powerful person. When the target tries to change the subject, the speaker continues to make sexual compliments until other attendees intervene. The next day, the speaker apologizes to the target. Other attendees report the incident but the target is afraid of retaliation if the committee takes action.

# Questions

1. Are attendees still required to follow the code of conduct when drinking?
2. How does the power imbalance affect this?
3. What is the purpose of the next day "apology"?
4. Should the target have input on the response?
5. How many people will the offender go on to harm in the future?

# Answers

1. Are attendees still required to follow the code of conduct when drinking? **YES**
2. How does the power imbalance affect this? **It makes it worse**
3. What is the purpose of the next day "apology"? **To deflect responsibility for their actions and allow continued harm to the community**

# Questions

4. Should the target have input on the response? **They can provide context or information but should not participate in the decision of the committee**
5. How many people will the offender go on to harm in the future? **A lot!** This pattern of behavior shows they have done this many times and perfected a system. They will continue doing it in your community unless something major changes

## What you should do

Investigate and find other incidents of the offender harming people through a sense of entitlement, in your community or outside (there will be lots)

Ban them for "a wide variety of incidents over several years"

Issue a separate statement reminding people to respect a soft no and be aware of power differentials

## Example scenario

A member of your community argued passionately against codes of conduct and dismisses reports of sexism. They report that someone in favor of codes of conduct made a sexist joke in their hearing. When pressed for details, they can't give any more information. No one else can back up their report.

# Questions

1. Do you have to waste your time investigating obvious lies?

# Answers

1. Do you have to waste your time investigating obvious lies? **NO**

## What you should do

Spend as little time as possible on rejecting this report and warning the person that false reports are also a breach of the code of conduct

Be wary of the reporter harming other people in your community

## Example scenario

A woman of a marginalized racial group uses a homophobic and sexist figure of speech in online chat. When asked to edit her comment by a member of the CoC committee, she claims that her comment is not homophobic or sexist, and the committee is being racist by selectively enforcing the CoC against her.

# Questions

1. Can marginalized people act in ways that oppress marginalized groups, theirs or others?
2. Are you applying equal standards of behavior to members of marginalized groups and people with more power and privilege?

# Answers

1. Can marginalized people act in ways that oppress marginalized groups, theirs or others? **YES**
2. Are you applying equal standards of behavior to members of marginalized groups and people with more power and privilege? **PROBABLY NOT**

## What you should do

Take whatever action is necessary to prevent harm to the community (e.g. if they won't agree to stop making homophobic statements, they have to leave)

Examine records and investigate to see if you have overlooked similar or worse actions by people with more power or privilege