

Duff on Hospitality Law

Harassment in the Workplace: Be Proactive to Reduce Risks

By Diana Shukis on 11.30.10 | Posted in Uncategorized

In this week's "late due to Snowmageddon II" post, [Diana Shukis](#), a partner in our Employment law practice group and long-time member of our Hospitality team, discusses the basic elements necessary to minimize your organization's risk of harassment in the workplace, including a step-by-step approach to avoiding, and what to do in the event it occurs. Of course, the easiest way to ensure you have all the training and assistance you need is to give Diana a call.

Workplace harassment continues to be a serious concern because of its negative business impacts and serious liability risks for employers in all industries, including those in the hospitality community. It is vital for hotel managers and human resources professionals to review their organizations' policies and practices regarding harassment and make any necessary improvements to avoid negative impacts. Workplace harassment based on race, ethnicity, disability or the perception of disability, sex, sexual orientation (in Washington and some other states), religion or age is prohibited by law.

What is harassment?

The most common form of harassment involves uninvited or unwelcome behavior that occurs because of an employee's membership in one of the protected classes described above. The behavior is considered harassment when it is severe or pervasive and considered offensive to a reasonable person. The law does not care about the "intent" of the harasser.

What should you do to prevent harassment in the workplace?

Adopt an effective anti-harassment policy. All employers must put in place an effective, clear anti-harassment policy. The policy should include:

1. a description of what constitutes harassment
2. a clear and easy way for employees to report problems if they experience or observe harassment in the workplace; and
3. an assurance that employees will not be retaliated against for reporting harassment.

It is best to include three different options for where an employee may report a problem. Without a clear, easy reporting mechanism, employers lose some of the benefit of having a harassment policy.

Make the policy easy to find. Make sure all employees have a copy of your anti-harassment policy and that copies of the policy are easily available at the workplace.

Publicize the policy. Remind employees, at least annually, of the anti-harassment policy in a memo and/or e-mail and provide an additional copy or remind them where they can find a copy copies in the workplace.

Conduct periodic training. Providing harassment training to all employees is an excellent way to educate your hospitality team regarding what behavior is unacceptable in the workplace. If it is not possible to provide training to all employees, it is important that all managers, at a minimum, receive proper training so they may help identify potential problems.

Educate newly hired employees. Make informing new employees of the anti-harassment policy part of new employee orientation. Give new employees a copy of the policy and tell them where the company copies can be found.

What should you do if there is a problem?

Respond to all complaints and concerns. Any manager or supervisor who receives a report of an issue that sounds like harassment must promptly notify the person who has been charged with handling such complaints, often the human resources manager or the property's general manager.

Promptly and appropriately investigate complaints. The reported harassment must be investigated promptly.

Punish if harassment has occurred. If the investigation results in a determination that harassment occurred, the harasser(s) must be punished. The punishment must be severe enough to reasonably ensure the harassment will stop.

Follow up to ensure no further problems. If the harasser(s) was/were not terminated, you must continue to take action to ensure the harassment does not resume.

Document your efforts. Thoroughly document your investigation efforts, conclusions and your continuing efforts to ensure the harassment did not resume and that there was no retaliation against the reporting party.

Summary

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Even one incident of harassment can have an enormous impact on your business. It is well worth the time and effort necessary to prevent harassment in the workplace and to respond appropriately if a problem is discovered. The stakes are too high to ignore opportunities for improvement in your policies and practices.

Our team members can assist with all phases of training and investigation. Please give us a call if we can help.

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