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Harassment



The hospitality industry relies heavily on customer service for its success. Establishments cultivate a culture of friendliness, service, and entertainment to benefit both guests and staff and the business. Yet, such a culture can lead to an environment ripe for harassment.

Relying on customer service as the cornerstone for business success may expose employees to vulnerable situations in interactions with co-workers, managers, guests, and vendors. This can create a power dynamic where workers feel pressure to tolerate harassment in order

to sustain a living, or, keep their employment. Behaviors from simple misunderstandings to predatory actions, if left unchecked and unresolved, could lead to significant problems for a business.

Most people think of harassment as inappropriate sexual behavior, but there are other forms of as well: bullying, discrimination, and verbal and physical abuse. A business that fails to address these issues risks significant financial and reputational damage. Legal fees and settlements can cost hundreds of thousands to millions of dollars. In addition, businesses may face long-term reputational damage from customers who choose to avoid establishments with the reputation of a toxic environment.

Harassment also has negative consequences beyond the parties immediately involved, including employee morale. This can lead to retention and recruiting difficulties which increases labor costs. The overall costs of dealing with harassment can add up to a significant financial impact.

However, consequences can be mitigated. Adopting clear harassment prevention policies provides businesses with the opportunity to address harassment, from defining it to reporting incidents and guiding management on complaint procedures.

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Harassment of Employees

It is important for a business to understand all types of harassment, so management and employees are fully aware of what constitutes harassment, how it affects victims and the workplace environment, and the appropriate ways to address it.

SEXUAL HARASSMENT

Sexual harassment encompasses unwelcome and inappropriate behaviors such as physical gestures, verbal comments, or presentation of visual imagery related to gender identification, gender expression, or sexual orientation that the recipient finds objectionable or threatening. These acts might be initiated by co-workers, managers, guests, or vendors.

BULLYING

Workplace bullying is repeated and unreasonable actions aimed at intimidating, degrading, or humiliating an employee or co-worker. This can include spreading rumors, undermining someone's work, or deliberately excluding someone from activities. Bullying can severely impact an individual's mental health and job performance.

DISCRIMINATION

Discrimination occurs when an employee is treated unfairly or less favorably because of characteristics such as race, gender, age, religion, or disability. This can manifest in aspects such as hiring practices, promotions, job assignments, or daily interactions. Discrimination not only violates workplace policies but also undermines the principles of equality and respect.

PHYSICAL ABUSE

Physical abuse in the workplace includes any form of physical aggression or violence like hitting, pushing, or physical intimidation. This type of harassment is not only harmful but also illegal and must be addressed immediately to ensure the safety of all employees.

VERBAL ABUSE

Verbal abuse includes the use of harsh or insulting language directed at an employee. This can include behaviors such as yelling, name-calling, or making derogatory remarks. Verbal abuse can create a toxic work environment and significantly affect an employee's emotional well-being.



Case Studies

The costs of a harassment lawsuits against hospitality establishments often reach high six figure settlements but can spiral into millions of dollars. As the hospitality industry works on narrow margins, these types of settlements can cause severe financial and reputational difficulties for an establishment.

A 2021 sexual harassment judgement against a Houston Hilton illustrates how large settlements can be. A jury found Hilton Management LLC's negligence played a substantial role in the plaintiff's sexual assault at the hotel and awarded her was \$44 million. The jury assigned the 90-percent of the blame to Hilton due to failures with the hotel's security and safety protocols.¹

A well-publicized settlement involved Chef Mario Batali and his partners, where the settlement cost \$600,000. The judge ruled that a permissive environment led to continuous sexual harassment over a three-year period. On top of the ruling, this case all but ended Batali's television career.²

In 2018, the owner of a New York City restaurant group was ordered to pay \$2.3 million to five former employees who had experienced sexual harassment and retaliation. The employees had reported incidents of sexual harassment by a supervisor, and after reporting the harassment, they were subjected to retaliation and eventually fired.³





Adopting clear harassment prevention policies within a broader code of conduct is an opportunity for businesses to address what constitutes harassment and how to respond to it. Hospitality establishments can create a safe working environment and cultivate a good experience by establishing a framework for rules governing interactions among co-workers and providing guidelines to deal with non-employees, including guests, contractors, and vendors.

The policies should be detailed and based on guidance from human resource professionals, attorneys, and insurance risk specialists. Every employee should receive a copy of the code of conduct, including the harassment prevention policy, in the language they

are most comfortable with. They should annually sign an acknowledgement that they received, read, and understand the policy. In addition to receiving the code of conduct, employees should undergo regular training to ensure they understand and can apply the harassment prevention policy effectively.

The essence of the abuse and harassment policy should be summarized and displayed on signs in employee areas that remind the workers of the business' no tolerance policy and contact information, such as a hotline telephone number, where employees can report allegations of harassment and abuse. Similar signs can be posted in public areas with a message suitable for non-employees.

Harassment Prevention Training

Harassment prevention training translates the organization's harassment prevention policies into everyday practice and conduct. The training should be designed to help educate employees about what constitutes harassment, types of harassment, how to recognize it, how to prevent it, how a recipient or observer should respond to it, and the steps managers should take when violations are reported to them.

While there is no current federal mandate for private entities to provide harassment prevention training, the U.S. Equal Employment Opportunity Commission (EEOC) encourages training and provides guidelines on what should be included. The EEOC suggests that training for all employees include:

- + Descriptions of harassment and prohibited conduct.
- + Examples that are tailored to the specific workplace and workforce.
- + Employees' rights and responsibilities if they experience or become aware of harassment.
- + Encouragement for employees to report harassing conduct.
- + Explanations of the complaint process and any voluntary alternative dispute resolution processes.
- + Explanations of the information that may be requested during an investigation.
- + Assurance that employees involved in an investigation are protected under federal employment discrimination laws.
- + Explanations of the range of possible consequences for engaging in prohibited conduct.
- + Opportunities to ask questions about sexual harassment training, policies, and procedures.
- + Contact information for those in the company responsible for addressing harassment questions, concerns, and complaints.⁴



For managers and leaders, EEOC encourages companies to provide additional training related to:

- + Information about how to prevent, identify, stop, report, and correct harassment, such as:
 - Identifying risk factors for harassment and specific actions to minimize or eliminate the risk of harassment.
 - Easy to understand, realistic methods for addressing a harassment complaint.
 - Clear instructions about how to report harassment up the chain of command.
 - Explanation of the confidentiality rules associated with harassment complaints.
- + Explain the types of conduct that are protected from retaliation under federal employment discrimination laws, such as:
 - Complaining or expressing an intent to complain about harassing conduct.
 - Resisting sexual advances or intervening to protect others from any harassing conduct.
 - Participating in an investigation about harassing conduct or other alleged discrimination.
- + Explain the consequences of failing to fulfill their responsibilities.⁵



A Final Word

Harassment can have negative consequences affecting all levels of a hospitality business. Installing preventative measure can mitigate risks to the business as well as provide a safe environment for employees, clients, and customers.

Insurance-based risk transfer strategies are just one set of tools to avoid these risks and their consequences.

Talk to your insurance broker about the risk prevention strategies introduced above. It is in all parties' best interests to prevent or mitigate these risks to first of all avoid the occurrence but then to reduce costs and minimize punitive and compensatory damages within the legal settings.





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