



# Employee Health and Safety

## CHAPTER

## OUTLINE

### Legal Aspects of Employee Protection

*Occupational Safety and Health Act*

*Civil Rights Act of 1964 re: Harassment*

### Employee Health

*Worksite Health*

### Employee Assistance Programs (EAPs)

*Employee Wellness Programs*

### Employee Safety and Security

*Employee Safety Programs*

*Crisis Management Programs*

### Employee Security Programs

*Zero-Tolerance Harassment Programs*

*Preventing Workplace Violence*

### Human Resources Terms

### For Your Consideration

### Case Study: Human Resources Management in Action

### Internet Activities

## CHECKLIST

## OF CHAPTER LEARNING OBJECTIVES

*As a result of satisfactory completion of this chapter, readers will be able to:*

1. Explain the roles of the two most important federal agencies responsible for ensuring employees are safe at work and are protected from those who would illegally harass them.
2. Explain the advantages enjoyed by employers who provide healthy worksites for their employees.
3. Describe the differences and similarities between employee assistance programs and employee wellness programs.
4. Review the legal and moral responsibilities employers have to ensure a safe and secure worksite for their employees.
5. List and describe specific steps employers can take to help prevent workplace violence.



## Impact on Human Resources Management

A common theme throughout this text is the vital importance of individual employees to the success of any hospitality business. In fact, most managers would agree that their employees are the most important asset, and their protection must receive the highest priority. Effective hospitality managers carefully enact programs designed to help ensure the long-term care and protection of physical assets, such as their buildings, equipment, and cash. In a similar manner, it makes sense for these managers to just as carefully design and implement those programs that will help ensure the safety and protection of their workers.

While it is certainly good business for managers to ensure the health and safety of workers, it is also a legal requirement that they do so. The hospitality industry includes job positions that, if not properly structured, may be quite dangerous or threatening. Legislation has been enacted to guide managers in addressing these concerns. It is the responsibility of HR managers to prevent employees from working in unhealthy or threatening environments, because healthy workers are more productive than those who are not. In addition, from an ethical perspective, employers should want to ensure the safety of their workers simply because it is the right thing to do.

Despite the best efforts of concerned employers to make their worksites safe and secure, good workers can still encounter personal difficulties that negatively affect their performance. Those organizations with designated employee assistance programs find they can help minimize the effects of the personal difficulties faced by employees and, in many cases, can assist these workers in completely overcoming their challenges. Those employers who have implemented employee wellness programs also often find that performance-affecting challenges faced by their employees can be prevented, minimized, or even eliminated, before they cause a significant negative impact at work.

Despite their best programs and planning, HR managers can encounter unavoidable as well as avoidable situations that directly threaten employee safety and security. While unavoidable crises of these types may not be preventable, they can be managed. Experienced HR managers know that well-planned and frequently practiced emergency response programs, as well as crisis management preplanning, can make the difference in successfully surviving an unavoidable catastrophic event.

Unavoidable crises are unfortunate, but even more unfortunate are those crises that, with proper preplanning, could have been prevented. Experienced HR managers know that security programs designed to eliminate threatening and violent behavior at work are important—and critical to the protection and productivity of their employees.

## Legal Aspects of Employee Protection

1. Explain the roles of the two most important federal agencies responsible for ensuring employees are safe at work and are protected from those who would illegally harass them.

Most HR managers and the organizations for which they work for would agree that they have a moral obligation to ensure that their workplaces are free from unnecessary hazards and that conditions in the workplace are safe for employees' physical and mental health. Regardless of whether they agree about moral responsibility, they all must recognize their legal responsibilities to ensure healthful working conditions. In the United States, the federal government has enacted two pieces of legislation that directly influence what hospitality organizations must do to ensure an appropriately safe and secure workplace. In this chapter, you will learn about both of these laws.

Before examining those two pieces of legislation in detail, it is important for hospitality managers to remember that most members of society must work to maintain the lifestyle they desire for themselves and their families. Because that is so, it is not surprising that society maintains its legitimate interest in requiring employers to take reasonable steps designed to ensure worker safety. While some business owners and managers might find legislation related to worker safety time consuming or cumbersome to implement, it is certainly in the best interest of all businesses to minimize on-job accidents, especially when reasonable management action could prevent worker accidents, or even worker deaths.

Despite the importance to society (as well as businesses!) of protecting its members who must work, the first legislation specifically designed to address workplace safety was not enacted until 1970. In that year, Congress passed the Occupational Safety and Health Act, and in doing so created the Occupational Safety and Health Administration (OSHA).

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**OSHA:** Short for the Occupational Safety and Health Administration, the agency responsible for enforcing the Occupational Safety and Health Act.

### OCCUPATIONAL SAFETY AND HEALTH ACT

The passage of the Occupational Safety and Health Act dramatically changed the way HR managers in hospitality, and other industries, viewed their role in ensuring that the physical working conditions in their operations met subscribed standards. Just as the Civil Rights Act of 1964 significantly altered the manner in which employees were to be selected and treated while at work, passage of the Occupational Safety and Health Act ultimately altered the physical conditions under which workers would do their jobs.

#### *History and Enforcement*

Concerned about worker safety and health, the U.S. Congress passed the Occupational Safety and Health Act in 1970. It heralded a new era in the history of public

efforts to protect workers from harm on the job. The Act established, for the first time, a nationwide, federal program to protect almost the entire workforce from job-related death, injury, and illness.

Then Secretary of Labor James Hodgson, who had helped draft the law, termed it “the most significant legislative achievement” for workers in a decade. Hodgson’s first step in putting the law into action was to establish, within the Labor Department, a special agency (the Occupational Safety and Health Administration: OSHA) to administer the Act.

As initially created, OSHA’s stated mission was to prevent work-related injuries, illnesses, and deaths. OSHA’s current role is to ensure the safety and health of America’s workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health.

The work of OSHA has been a tremendous success. Since the enforcement agency created by this law began its work, occupational deaths have been cut by 62 percent, and injuries have declined by 42 percent. This fact is even more impressive when you consider that, during the same period, U.S. employment has doubled from 58 million workers at 3.5 million worksites to more than 115 million workers at 7.2 million sites.

The safety and health standards administered by OSHA are quite complex. They include standards related to noise levels, air quality, physical protection equipment, and even the proper size for ladders, to name but a few. Regardless of one’s view of the detail with which OSHA involves itself, hospitality managers are responsible for knowing, and following, the Act’s provisions. From a practical perspective, HR managers will most often interact with OSHA in the areas of enforcement and record keeping.

The top priority for enforcing violations of the Act are reports of imminent dangers, or accidents about to happen; second are fatalities or accidents serious enough to send three or more workers to the hospital. The third priority is employee-initiated complaints. Referrals from other government agencies are the fourth priority. Fifth are targeted inspections that focus on specific employers and industries that report high injury and illness rates.

### *Compliance and Recordkeeping Requirements*

The Occupational Safety and Health Act applies to nearly all hospitality employers. It requires employers to keep detailed records regarding employee illness and accidents related to work, as well as the calculation of on-job accident rates.

OSHA monitors workplace safety with a large staff of inspectors called compliance officers. Compliance officers visit workplaces during regular business hours and perform unannounced inspections to ensure that employers are operating in compliance with all OSHA health and safety regulations. In addition, the officers are required to investigate any complaints of unsafe business practices. Managers can accompany OSHA compliance officers during an inspection, and they should do so for two reasons: (1) the manager may be able to answer questions or clarify



## IT'S THE LAW!

**O**SHA penalties can range from \$0 (for nonserious violations) to \$70,000 (for repeat and willful violations). In most cases, penalties may be discounted if an employer has a small number of employees, has demonstrated good faith, or has few or no previous violations. In the hospitality industry, some of the most commonly cited safety violations and penalties relate to an employee's "right to know" about potential threats to their safety.

Early in 1984, OSHA put in place the Federal Hazard Communication Standard that has come to be known as the "right-to-know" law. Originally, the law affected primarily chemical manufacturing facilities. However, in 1985, the courts decided that these regulations should apply to all facilities. The "right-to-know" law is designed to protect workers from potentially hazardous chemicals. The requirements and regulations concerning "right-to-know" include three major areas:

1. Locating, inventorying, and tracking potentially hazardous chemicals
  - Information about what chemicals are used, where they are stored, and how much is used all falls into this category.
2. Identifying, labeling, and providing information about potentially hazardous chemicals
  - All chemicals (and areas where chemicals are used) within a facility must be identified and labeled.
  - Labels must show what health, fire, and reactive hazards are associated with each chemical, as well as what protective equipment must be used to handle the chemical.
  - In addition, definitive information about the chemical must be provided to employees, based on the Material Safety Data Sheets (MSDSs) provided by manufacturers that provide detailed information about the specific chemical, its use, and any potential danger.
3. Training and educating employees
  - Employees must be educated about:
    - a. Employees' rights under the legislation
    - b. What hazardous chemicals are used by the facility (especially those the employee might come in contact with)
    - c. How the chemicals will be labeled
  - The general uses of, protective clothing required, and accident-response procedures associated with the chemical must be communicated.

procedures for the compliance officer; and (2) the manager should know what transpired during the inspection. Afterward, the manager should discuss the results of the inspection with the compliance officer and request a copy of any inspection reports filed. Generally, inspections are not announced, although the compliance officer must state a specific reason for the inspection.



## Human Resources MANAGEMENT ISSUES (10.1)

Carlos Magana was a Spanish-speaking custodian working in a healthcare facility's kitchen. Bert LaColle was the new food and beverage director. Mr. LaColle instructed Mr. Magana to clean the grout between the red quarry kitchen tile with a powerful cleaner that Mr. LaColle had purchased from a chemical cleaning supply vendor. Mr. LaColle, who did not speak Spanish, demonstrated to Mr. Magana how he should pour the chemical directly from the bottle onto the grout, and then brush the grout with a wire brush until it was white.

Because the cleaner was so strong, and because Mr. Magana did not wear protective gloves, his hands were seriously irritated by the chemicals in the cleaner. In an effort to lessen the irritation to his hands, Mr. Magana decided to dilute the chemical. He added water to the bottle of cleaner, not realizing that the addition of water would cause toxic fumes. Mr. Magana inhaled the fumes while he continued cleaning, and later, because of that, suffered serious lung damage.

Mr. LaColle was subsequently contacted by OSHA, which cited and heavily fined the facility for a safety (MSDS) violation. Mr. LaColle maintained that MSDS statements, including the one for the cleaner in question, were, in fact, available for inspection by employees.

### QUESTIONS

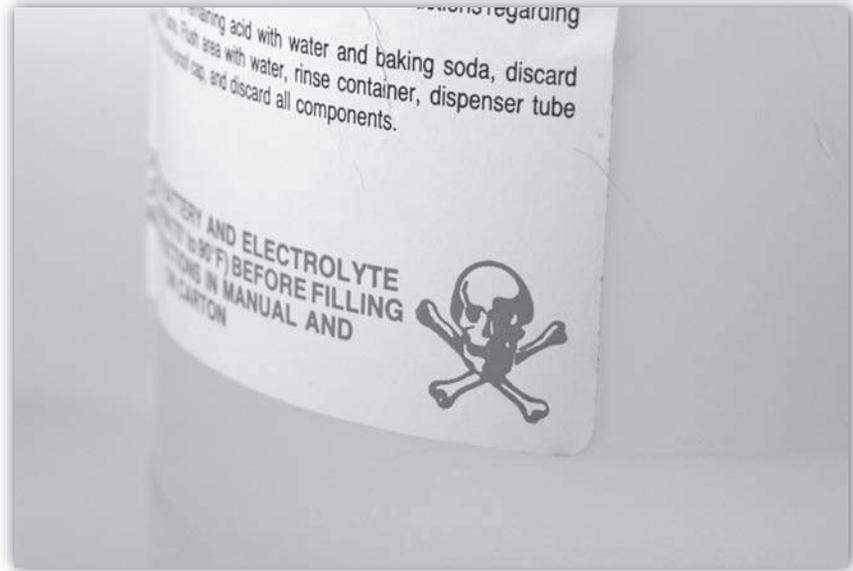
1. Assume MSDSs were, in fact, available to the facility's employees. Do you think the facility fulfilled its obligation to provide a safe working environment for Mr. Magana?
2. Do you believe the facility has an obligation to provide safety information to Mr. Magana in his primary language (Spanish)?
3. Based on your knowledge of HR management, if you were Mr. LaColle, what specific steps would you take to avoid future OSHA violations of this type?

The Occupational Safety and Health Act requires the Secretary of Labor to produce regulations that ensure employers keep records of occupational deaths, injuries, and illnesses. Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits. Instead, the records are used for a variety of purposes.

Injury and illness statistics are used by OSHA to help direct its programs and measure its own performance. Inspectors use the data during inspections to help direct their efforts to the hazards that are hurting workers. The records are also used by employers and employees to implement safety and health programs at individual workplaces. Analysis of the data is a widely recognized method for

OSHA enforces employees' right to know if chemicals used on the job pose any dangers to health or safety.

*Courtesy  
PhotoDisc/Getty  
Images*



discovering workplace safety and health problems and for tracking progress in solving them. The records employers submit to OSHA also provide the base data for the Annual Survey of Occupational Injuries and Illnesses, the country's primary source of occupational injury and illness data.

Currently, the major areas of OSHA-mandated record keeping related to the hospitality industry include:

- *Log and summary of all recordable injuries and illnesses.* All OSHA-recordable injuries and illnesses that occur in the workplace or during the course of an employee's duties must be entered in a log (OSHA form 300 or its equivalent) within six working days after the employer is notified that a recordable injury or illness has occurred. A summary of the reported accidents or illnesses (OSHA form 300A) must be signed by a responsible company official, and posted each year, in regular work areas from February 1 through March 1. If no recordable injuries or illnesses were reported during the previous year, zeros must be written in the required spaces, and the blank form still must be posted.
- *Personal protective equipment (assessment and training).* The Personal Protective Equipment (PPE) Standard specifically addresses an employer's responsibility to identify any potential threat to an employee's eyes, face, head, and extremities and to allow for the necessary clothing or gear required to protect

employees from harm. If potential hazards, such as chemical or radiological hazards, or mechanical irritants are identified, issues related to those substances must be assessed. The assessment must be written, certified by a responsible official, and be work area and job specific. Employers must train employees on the use of any needed PPE. The facility's policy on PPE and training must be documented in the employer's records and retained for at least five years.

- *Control of hazardous energy (lock out/tag out).* The Lock Out/Tag Out Standard applies to activities related to servicing and/or maintenance of machines and equipment. It is intended to protect employees from the unexpected movement or start-up of machines and equipment. OSHA requires that employers develop a written plan that identifies specific equipment and activities that would require lock out or tag out of the equipment when broken or under repair, and include an employee training element about them. The program must include specific lock out/tag out procedures for each affected piece of equipment. Employees must be trained on the company's Lock Out/Tag Out policy and procedures, and the record of this training must be documented and maintained in the employer's files for at least five years.
- *Hazard communication standards.* The Hazard Communication Standard is intended to address the issue of potentially hazardous chemicals in the workplace and informing employees of the specific hazards and protective measures that must be undertaken when using, handling, and/or storing these products. Some recordkeeping requirements include (1) developing and maintaining a written hazard communication program, including lists of hazardous chemicals in the workplace; (2) providing employees with access to MSDSs; (3) employee training (including documentation) about the hazards of the chemicals they are or may be exposed to and protective measures that must be undertaken; and (4) labeling of chemical containers in the workplace.
- *Emergency action plans and fire prevention plans.* Any facility that employs more than 10 people must develop a written Emergency Action and Fire Prevention Plan. Facilities that employ fewer than 10 people do not have to develop a written plan, but they are required to orally communicate emergency action procedures to each employee.

Additional examples of recordkeeping requirements that may or may not directly apply to a specific hospitality organization include those related to the respiratory protection of workers, asbestos exposure, hepatitis B, and bloodborne pathogens. HR managers can remain current about recordkeeping requirements by regularly logging into the OSHA Web site ([www.osha.gov](http://www.osha.gov)).

## **CIVIL RIGHTS ACT OF 1964 RE: HARASSMENT**

In Chapter 2, you learned that Title VII of the Civil Rights Act of 1964 outlaws discrimination in employment on the basis of race, color, religion, sex, or national

origin. It is also important to recall that, in 1972, the passage of the Equal Employment Opportunity Act, a revision to the Civil Rights Act of 1964, resulted in the formation of the Equal Employment Opportunity Commission (EEOC).

In 1980, the Equal Employment Opportunities Commission (EEOC) issued regulations defining sexual harassment and stating that it was a form of sexual discrimination prohibited by the Civil Rights Act of 1964. In 1986, the U.S. Supreme Court first ruled that sexual harassment was a form of job discrimination—and held it to be illegal. Today, there is greater understanding among managers that the Civil Rights Act prohibits sexual (and other types of) harassment at work, even when the harassment occurs within the same gender. In addition, most states have their own fair employment practices laws that prohibit harassment based on a variety of factors, and, as a result, many state harassment laws are even stricter than the federal law.

Employees can face a variety of harassment forms. These include:

- *Bullying.* Harassment that can occur on the playground, in the workforce, or any other place. Usually, physical and psychological harassing behavior is perpetrated against an individual, by one or more persons.
- *Psychological harassment.* This is humiliating or abusive behavior that lowers a person's self-esteem or causes them torment. This can take the form of verbal comments, actions, or gestures.
- *Racial harassment.* The targeting of an individual because of his or her race or ethnicity. The harassments include words, deeds, and actions that are specifically designed to make the target feel degraded due to his or her race, origin, or ethnicity.
- *Religious harassment.* Verbal, psychological, or physical harassment used against targets because they choose to practice a specific religion.
- *Stalking.* The unauthorized following and surveillance of an individual, to the extent that the person's privacy is unacceptably intruded upon, and the victim fears for his or her safety. In the workplace, those who know, but do not necessarily work with, the victim most commonly exhibit this form of harassment.
- *Sexual harassment.* This harassment can happen anywhere but is most common in the workplace (and schools). It involves unwelcome words, deeds, actions, gestures, symbols, or behaviors of a sexual nature that make the target feel uncomfortable. Gender and sexual orientation harassment fall into this form of harassment.

In U.S. legal terms, sexual harassment is any unwelcome sexual advance or conduct on the job that creates an intimidating, hostile, or offensive working environment. Such environments are unsafe for employees both physically and mentally. In real-life terms, harassing behavior ranges from repeated offensive or belittling jokes to outright physical assault. In the hospitality industry, workers can be subject to extreme forms of harassment by coworkers and customers. Workers can be required to follow company policies regarding harassment, but employers can also

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**Zero tolerance:** A policy that permits no amount of leniency regarding harassing behavior.

be held directly responsible for the acts of customers and vendors who are not subject to the company's disciplinary procedures. These types of individuals are, however, subject to laws against assault. Therefore, the effective management of a **zero-tolerance** sexual (and other forms of) harassment policy should be implemented, should apply to all individuals with whom employees come into contact, and should be designed to help ensure the safety and security of all employees. Because they are so important, zero-tolerance programs will be examined in detail in this chapter.

## Employee Health

### 2. Explain the advantages enjoyed by employers who provide healthy worksites for their employees.

Unhealthy workplaces should be a concern to all HR managers employed in the hospitality industry. If worker productivity is reduced because workers cannot function properly at their jobs due to constant headaches, watering eyes, nausea, or fear of exposure to elements that can cause long-term health problems, then the entire industry and its guests will suffer. Consequently, maintaining a healthy work environment benefits the hospitality organization, its workers, and its customers.

### WORKSITE HEALTH

Although the specifics of exactly what constitutes a healthy work environment will vary based on the specific hospitality business under examination, in general, HR managers concerned about the health of their workers should directly address the following issues:

1. *Provide sufficient quantities of fresh air.* In the hospitality industry, air-quality concerns in work areas can be significant. Ventilation hoods in cooking and other food production areas should provide workers with enough fresh air to do their jobs comfortably. In most cases, the cost of providing an increased number of air exchanges per hour (to reduce heat levels) is minimal.
2. *Provide a smoke-free environment.* Smoking has long been banned in food production areas. In dining room areas and bars, secondhand smoke is the major threat to worker safety. Most worker safety experts firmly oppose the position of any manager who forces employees to work in tobacco smoke-filled environments. While the issue of smoking in restaurants, bars, and hotels evokes strong reactions from many in the industry, the reality is that, in the future, few businesses will likely be able to maintain environments in which customers (and thus the workers who serve them) will be involuntarily exposed to air they believe to be unhealthy.

**Carpal tunnel syndrome:** Nerve damage resulting in a burning, tingling, or itching numbness in the palm of the hand and the fingers, especially the thumb and the index and middle fingers.

3. *Keep air ducts clean and dry.* Water and grease in air ducts is a fertile breeding ground for mold and fungi. The regular cleaning of air and grease filters can prevent air-quality problems such as mold and mildew before they start.
4. *Maintain effective equipment inspection programs.* The frequent and thorough inspection of restaurant equipment, especially those pieces using gas as their energy source (e.g., hot water heaters, boilers, ovens, ranges, broilers, and the like), can help detect gas or carbon monoxide leaks before they endanger staff or guests.
5. *Monitor repetitive movement injuries.* Whenever workers must do repetitive tasks, they risk the potential for headaches, swollen feet, back pain, or nerve damage. The most frequent site of repetitive movement injury is the wrist (**carpal tunnel syndrome**). Properly designed work areas can help minimize or eliminate repetitive stress injuries of this type.
6. *Monitor stress levels.* Stress can be caused by a variety of factors, and an in-depth discussion of stress, various means of reducing it, and the many methods of



## Human Resources Management: CURRENT EVENTS 10.1

### WOULD YOU PREFER A NONSMOKING OR A NONSMOKING ROOM?

Industry observers were surprised but not shocked when Westin Hotels & Resorts in the United States, Canada, and the Caribbean went 100 percent smoke-free in January 2006.

The hotel industry really took notice, however, when Marriott International Inc. announced that, effective September 2006, all 2,300 of its U.S. and Canadian properties—representing 400,000 guest rooms—would be 100 percent smoke-free. All hotel common areas such as restaurants, lounges, meeting rooms, public space, and employee work areas were also designated as smoke-free.

“Creating a smoke-free environment demonstrates a new level of service and care for our guests and associates,” stated J. W. Marriott Jr., Marriott International’s chairman and chief executive officer. “Our family of brands is united on this important health issue, and we anticipate very positive customer feedback.”

When the major quick-service restaurant chains (e.g., Wendy’s, Taco Bell, and McDonald’s) implemented smoke-free dining room policies years ago, detractors predicted financial disaster. It didn’t happen; nor is it likely that history will record a decrease in Marriott revenues directly tied to their nonsmoking hotel status, even though their guests can now choose only between nonsmoking and non-smoking rooms. Look for all hospitality chains to announce similar bans within the coming years.

channeling stress in a positive direction is beyond the scope of this text. HR managers should be aware, however, that in the fast-paced hospitality industry, stress can be job-related or it can be brought to the job. Employees often arrive at work concerned about personal matters such as troubling family issues, personal economic problems, and even their individual personality characteristics (e.g., prone or not prone to have high stress levels). When the stress levels at work are excessive, absenteeism, burnout, and turnover typically increase.

7. *Make lifesaving equipment and training readily accessible.* Sudden cardiac arrest (SCA), which claims the lives of 220,000 people each year, can strike any workplace, and at anytime, without warning. But experts know that early access to cardiopulmonary resuscitation (CPR) and an **automated external defibrillator (AED)** can save many of these lives. Because so many people spend the majority of their day in the workplace, the American Red Cross advocates training all workers in CPR and AED use.
8. *Pay attention to workers' complaints.* Dates, events, and employee concerns should be recorded to detect any potential patterns that would indicate continued threats to employee safety.

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**Automated external defibrillator (AED):** A portable electronic device that can audibly prompt and deliver an electric shock that, in many cases, can increase survival rates of those suffering cardiac arrest.

## Employee Assistance Programs (EAPs)

3. **Describe the differences and similarities between employee assistance programs and employee wellness programs.**

Even if hospitality employers work hard to provide healthy worksites, employees will occasionally have personal problems. Whether the problem relates to job stress or to marital, relationship, legal, financial, or health issues, the common feature of such issues is simply this: eventually, the issue will be reflected at the workplace in terms of lowered productivity levels and increased absenteeism or turnover.

To help employees address problem areas in their lives, more companies are implementing employee assistance programs (EAPs). As you learned in Chapter 3, an EAP relates to a variety of employer-initiated efforts to assist their employees with family concerns, legal issues, financial matters, and health maintenance.

In the United States, large companies such as DuPont, Standard Oil, and Kodak implemented the earliest EAPs in the 1940s, as they recognized that some of their employees were experiencing difficulty dealing with alcohol-related issues and addictions. Formal programs were held on the employer's worksite to educate workers about the dangers of alcohol and to help those who were addicted to overcome their dependence on alcohol. The identifiable goal of these programs benefited both employee and employer, because they were aimed at getting the employee back to work, in a productive manner, as quickly as possible. In the hospitality industry, because many worker positions involve the service and, in the case of some sales and management positions, the consumption of alcohol, the need for and benefits of programs of this type are self-evident.

To illustrate the importance of EAPs, consider the case of Mike Edgar. Mike is in the maintenance department at the hotel where you are the HR manager. Mike is a talented worker and has performed very well during his 15 years of employment with the property. He is respected by his fellow employees, his department head, and the hotel's other managers. In addition, he has been selected as employee of the month several times during his tenure with the property. Most recently, however, Mike's performance has not been so good. He has been late three times in the past five weeks and, just yesterday, called in sick to work only 15 minutes before the beginning of his scheduled shift. The rumor in the hotel is that Mike is having significant marital problems and that his wife and children are now living in a town several hours away.

Mike's boss approaches you to discuss the disciplinary action to be taken against Mike. Certainly, your hotel has every right to discipline Mike for his performance shortcomings. Ultimately terminating Mike, however, will likely result in the implementation of a new employee search, involving significant expenditure of time and money, and an extended period of training to bring the new employee up to Mike's level of experience and productivity. In this case, you would likely want to help Mike through this difficult period, and retain a quality employee. Effective EAPs are designed and implemented for cases such as Mike's.

Today, more hospitality employers are implementing EAPs to address nontraditional areas of employee assistance, including adoption counseling, legal assistance, and bereavement counseling, as well as mental health and substance abuse counseling. Such programs can be very cost-effective if an operation's employees view them positively. For employees, the biggest concern about utilizing their employer-provided EAP relates to confidentiality. Simply put, employees must be assured that, if they voluntarily enroll in an EAP, their participation will be kept strictly confidential. In quality EAPs, the administrators of the programs ensure that the confidentiality of its participants will be scrupulously maintained.

## EMPLOYEE WELLNESS PROGRAMS

Despite the proven effectiveness of EAPs, some progressive companies have taken the position that it is best to help employees eliminate those lifestyle factors that typically lead to personal problems, and thus prevent these difficulties before they begin. To do so, more employers are implementing employee **wellness programs**.

Typical examples of employer-initiated wellness programs include the topics of quitting smoking, nutrition and weight management, high blood pressure control, weight loss, self-defense, exercise, and stress management. In many cases, employers who provide these programs find that their employees stay healthier and that the business's health insurance carriers offer discounts for implementation of these programs. In addition, some companies have found that employee participation in wellness programs increases when the employee's family members participate because the rules allow them to do so. Thus, for example, employees who are interested in participating in a company-sponsored weight loss program may be more inclined to attend sessions regularly if their spouse (or significant other) is also allowed to join in.

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**Wellness programs (employee):** An employer-sponsored initiative designed to promote the good health of employees.

## Employee Safety and Security

### 4. Review the legal and moral responsibilities employers have to ensure a safe and secure worksite for their employees.

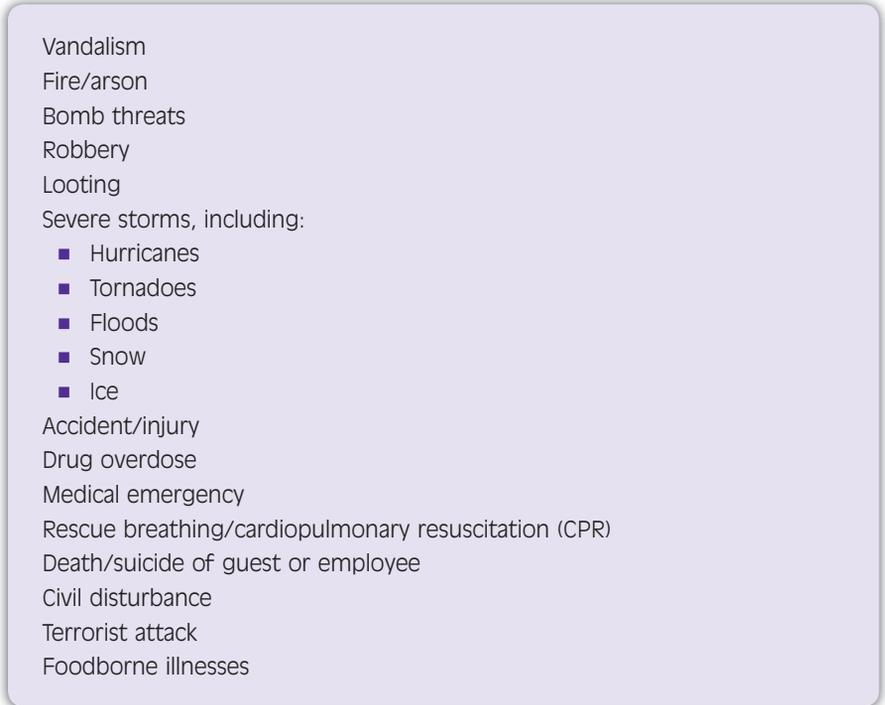
In most English-language thesauruses, you would find the words **safety** and **security** listed as synonyms. In the context that we will examine these terms, each will designate a distinct concept related to HR management.

**Safety:** Freedom from the conditions that cause personal harm.

**Security:** Freedom from fear and anxiety related to personal harm.

From the perspective of an HR manager working in hospitality, **safety** can be considered a condition that minimizes the risk of harm to workers, while **security** relates to employees' feelings of fear and anxiety. Thus, an individual employee at work might be very safe, but still not feel secure. Alternatively, employees might feel they are quite secure, while they are, in reality, quite unsafe.

HR managers should seek to ensure that their employees are as safe as possible at work, and as a result, that these same employees feel a high degree of security. Managers can do so by implementing well-designed programs that enhance worker safety and security. For example, employers could implement fire safety programs designed to minimize the fire-related risk of harm to employees. Figure 10.1 details



- Vandalism
- Fire/arson
- Bomb threats
- Robbery
- Looting
- Severe storms, including:
  - Hurricanes
  - Tornadoes
  - Floods
  - Snow
  - Ice
- Accident/injury
- Drug overdose
- Medical emergency
- Rescue breathing/cardiopulmonary resuscitation (CPR)
- Death/suicide of guest or employee
- Civil disturbance
- Terrorist attack
- Foodborne illnesses

**FIGURE 10.1:** Potential Crisis Situations in the Hospitality Workplace

**Crisis:** A situation that has the potential to negatively affect the health, safety, or security of employees.

additional types of **crises** for which HR managers may consider designing specialized employee safety and/or security programs.

While it is not realistic to believe that employees can be insulated from all potential threats to their safety or security, effective HR managers should take steps to help minimize these threats. From a moral perspective, employers certainly have a responsibility to provide workers with a worksite that is as free from threatening conditions as it can reasonably be. From a legal perspective, the Occupational Safety and Health Act of 1970 (PL 91-596) requires that employers address safe and healthful working conditions. Specifically, the law requires employers to provide their employees with a place of employment that is:

“free from recognizable hazards that are causing or are likely to cause death or serious physical harm to employees,” as well as “the exposures at which no worker will suffer diminished health, functional capacity, or life expectancy as a result of his or her work experience.”

## EMPLOYEE SAFETY PROGRAMS

Because the safety and security needs of different hospitality organizations vary so widely, it is difficult to provide one all-purpose step-by-step list of activities that should be implemented to minimize the chances of employee accidents or injury. From a legal perspective, a hospitality operation’s basic obligation is to act responsibly in the face of threats. One way to analyze and respond to those responsibilities is illustrated by the four-step, simplified system presented in Figure 10.2.

*Step 1: Recognition of the safety threat.* Safety programs generally start with the recognition of a need; that is, a realization that a threat to people (or property) exists. Some of the most common threats to employee safety in the hospitality industry include those related to natural disasters, coworkers, guests (in dining rooms, bars, lounges, guest rooms, and the like), the worksite, and even the employees themselves.

<b>STEP 1</b>	Recognition of the safety threat
<b>STEP 2</b>	Program development in response to the threat
<b>STEP 3</b>	Program implementation
<b>STEP 4</b>	Program evaluation

**FIGURE 10.2:** Four-Step, Simplified Safety Management System

The overwhelming majority of guests pose no threat to employees, but effective HR managers still train employees in the proper response to those guests who do pose a threat.

*Courtesy  
PhotoDisc/Getty  
Images*



*Step 2: Program development in response to the threat.* Once a threat to safety or security has been identified, HR managers can develop an appropriate response to address it. The proper response to an identified threat may take the form of any one or more of the following:

1. Employee training for threat prevention
2. Increased surveillance and/or patrol of facilities (for external threats)
3. Systematic inspections
4. Modification of physical facilities to reduce the threat
5. Establishment of standard procedures

*Step 3: Program implementation.* When a hospitality operation has identified a threat and designed a safety and security program that directly addresses the threat, it must put the program into action. A large hospitality facility may have a safety and security department. Its head would ordinarily report to the general manager of the facility. Staff members in the department would be responsible for routine duties, such as patrolling the facility for unauthorized people or suspicious activity, performing inspections, assisting the police with crime reports, and serving as a liaison with insurance carriers.

In a smaller facility, a property safety committee can play a valuable role in the identification and correction of safety and security problem areas. Ideally, a safety committee should consist of members from each of an operation's departments. For example, a restaurant might have members from the

preproduction, production, and clean-up areas in the back of the house, and bartenders, servers, and hosts in the front of the house. A hotel's safety committee might have one or more members from housekeeping, laundry, maintenance, food and beverage, front desk, guest services, and the administrative offices. In the smallest of hospitality facilities, the operations manager would assume the primary responsibility for ensuring the implementation of appropriate safety-related training.

*Step 4: Program evaluation.* If a safety program is not working (i.e., if it is not reducing or eliminating the threats to people or property you have identified), then the program must be reviewed for modification. Legally, if it was necessary, you will be in a much stronger position to defend your safety-related activities if you can document not only that you have a safety program, but also that the program is effective. There are a variety of ways to measure your safety program's effectiveness. Some tangible measurements managers may utilize include:

- Number of facility inspections performed
- Inspection or quality scores
- Number of safety-related incidents reported
- Dollar amount of losses sustained
- Number of insurance claims filed
- Number of lawsuits filed
- Number of serious or minor accidents
- Number of lost workdays by employees
- Number of employees disabled
- Number of drills or training exercises properly performed

The important point for HR managers to remember is that a safety-related program can be said to have been successfully implemented only after an appropriate evaluation component has been developed. Unless you know a program has made a measurable difference, you may easily be lured into a false sense of confidence about the program's effectiveness in reducing safety threats.

## CRISIS MANAGEMENT PROGRAMS

Just as the safety needs of hospitality organizations vary widely, so too will their crisis management needs. For example, a hotel would more likely face challenges associated with evacuating employees and guests during a weather-related crisis than would the manager of a take-out restaurant. Geographic location is also a factor in crisis preparations. Hospitality managers in the Midwest, for example, do not have to worry about preparing for a typhoon, but they would have to be ready for snow and ice storms that can be just as disruptive and threatening.

Planning for such contingencies is an activity that affects all managers, not just those with HR responsibilities. Because guests, as well as facilities, are typically affected in a crisis, hospitality managers in all functional areas should develop

plans to deal with the potential for calamities they cannot prevent. As previously pointed out, in many small hospitality operations, the general manager may be responsible for a crisis response and for anticipating and managing the ways it will directly affect the employees.

Recall that, earlier in this chapter, a crisis was defined as a situation with the potential to negatively affect someone's health, safety, or security. Even though some types of crises cannot be prevented by management (e.g., floods, severe weather storms, robberies, and the like), effective HR managers still seek to manage crises to the greatest possible degree. Essentially, precrisis management consists of two distinct activities. These are:

- Precrisis planning
- Emergency plan practice

### *Precrisis Planning*

It is too late to prepare for a crisis when your operation is experiencing one. If you are unprepared, and as a result, respond poorly, you may not only increase the severity of the crisis, but you may also be held legally responsible by guests or employees for your lack of planning. To prepare effectively for a crisis, HR managers should develop and practice **emergency plans**. An emergency plan identifies a likely crisis situation and then details how the operation will respond to it. After it is developed, an emergency plan must be practiced, so all employees will know what they should do during the crisis and when they should do it.

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#### **Emergency**

**plan:** The specific actions to be taken by managers and staff in response to a crisis.

Managers cannot prevent every type of crisis from affecting their operations, but they can plan what to do in the event of such emergencies.

*Courtesy Digital Vision*



No one can prepare for every crisis that could occur in a hospitality facility, but it is the responsibility of managers to be prepared for all of those situations that can be readily foreseen.

Experienced managers know that many crises will actually require similar responses. For example, training employees in the proper procedures for handling general medical emergencies will prepare them for responding to slips and falls, employee accidents, guest injuries, and other threats to safety that could require medical attention. Similarly, preparing a facility **evacuation plan** will be helpful not only in case of a fire, but also during a weather-related disaster or power outage.

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#### **Evacuation**

**plan:** The specific actions to be taken by managers and staff when vacating a building in response to a crisis.

By developing responses to a relatively small number of circumstances, you and your staff will be well equipped to address a wide variety of potential crises, because all crises have some characteristics in common, including:

- Urgent danger
- Halt in normal operations
- Human suffering
- Financial loss

It is important to commit emergency plans to writing. This is crucial for two reasons: (1) a written plan will clarify precisely what is expected of management, as well as employees, in times of crisis; and (2) if the operation is involved in a lawsuit, the written emergency plan can serve as evidence to support its defense. A judge or jury would readily acknowledge that an operation's emergency plan was in place, indicating a level of reasonable care.

An effective emergency plan need not be complicated. In fact, it is best if it is not. A crisis is a stressful time, during which confusion is a real threat. Thus, any planned response to an emergency should be clear and simple, regardless of the number of steps required. In its simplest form, a written emergency plan should address:

- The nature of the crisis
- Who is to be informed when the crisis occurs
- What each employee is to do in response to the crisis
- When they are to take the required action

When emergency plans have been finalized, each manager and affected employee should be given copies or have immediate access. Subsequently, it is important to review and practice the emergency plans regularly.

### *Emergency Plan Practice*

Once your emergency plan has been developed, the next step is to practice the procedures you have included in it. Obviously, it is not possible to create, for example, an actual snowstorm in order to practice your staff's response to it, but

you can still practice your response. Practicing an emergency plan may include verbal plan review or an actual emergency plan run-through. The question of which emergency plans to practice (and how often) will vary by the individual operation's needs. Management can, however, write and follow an emergency plan practice schedule. The objective in developing a schedule for practicing emergency plans should be to emphasize the most likely and serious threats and to allow each staff member with responsibilities during the crisis to fully understand his or her role.

Crises affect employees both in the short and long run. Experiencing a crisis, especially one that entails injury or loss of life, can be very stressful. Negative effects on employees can include anxiety, depression, nightmares, flashbacks, and even physical effects such as insomnia, loss of appetite, and headaches. Collectively, these and related symptoms are known as **post-traumatic stress disorder (PTSD)**. Increasingly, employers have been called on to recognize and respond to the post-traumatic stress disorder symptoms of employees following their exposure to a crisis.

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**Post-traumatic stress disorder**

**(PTSD):** A severe reaction to an event that caused a threat to an individual's physical or emotional health.

## Employee Security Programs

### 5. List and describe specific steps employers can take to help prevent workplace violence.

It would be nice to believe that groups of employees, all united toward achieving the same goals, would be able to work with a high degree of peace, harmony, and security. Unfortunately, sometimes that simply is not the case. Although hospitality workplaces are generally peaceful, HR managers must ensure, to the greatest degree possible, that they stay that way.

As you have seen, employers should take a variety of steps to help ensure that their employees enjoy a high degree of safety while at work. These workers deserve management's best efforts to ensure their security as well. In most cases, these security-related efforts will take the form of protecting workers from harassment of all types, as well as from physical aggression, cruelty, and bodily harm.

### ZERO-TOLERANCE HARASSMENT PROGRAMS

If employees are to enjoy security (freedom from fear and anxiety) at work, it follows that they must work in a harassment-free environment. While most media attention tends to focus on sexual harassment (see Chapter 2), it is one of an HR manager's most important jobs to eliminate all forms of harassment (e.g., racial, gender, sexual orientation, religion, and the like) from the workplace. Because there is more established case law about how the courts view sexual harassment, and because of its common presence in the hospitality industry, the major focus of this section is on preventing sexual harassment.

The U.S. Supreme Court first ruled that unwelcome sexual conduct creating a hostile and offensive work environment violates Title VII of the Civil Rights Act in *Meritor Savings Bank, FSB v. Vinson* (1986). Since then, the Equal Employment Opportunity Commission (EEOC) and the courts have expanded the hostile and offensive work environment analysis to prohibit harassment based on race, color, sex, religion, national origin, age, and disability. The EEOC is the federal agency that enforces Title VII of the Civil Rights Act. The regulations issued by the EEOC on sexual harassment provide that

[a]n employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. (Source: EEOC).

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#### Hostile work environment (sexual harassment):

A workplace infused with intimidation, ridicule, and insult that is severe or pervasive enough to create a seriously uncomfortable or abusive working environment with conduct severe enough to create a work environment that a reasonable person would find intimidating (hostile).

#### Quid pro quo (sexual harassment):

*Quid pro quo* literally means "something for something." Harassment that occurs when a supervisor behaves in a way or demands actions from an employee that forces the employee to decide between giving in to sexual demands or losing her or his job, losing job benefits or promotion, or otherwise suffering negative consequences.

The EEOC expects employers to affirmatively act to prevent all types of harassment. HR managers need to understand that the *Meritor Savings Bank* case ruling by the Supreme Court also addressed different standards for determining liability in cases of **hostile environment** and **quid pro quo** sexual harassment.

From a legal perspective, if harassment is established under the *quid pro quo* version, the employer automatically is liable and will be held accountable for whether or not steps were taken to correct the situation. In contrast, an employer's liability in a hostile work environment case must be established by showing not only that the harassment occurred, but also that the employer did not take appropriate action to stop it.

Sexual (and other forms of) harassment policies and the training procedures required to fully comply with the law can be quite complex (for a detailed discussion, see Stephen Barth, *Hospitality Law: Managing Legal Issues in the Hospitality Industry*, 3rd edition. New York: John Wiley, 2008) and should be thoroughly reviewed by legal counsel prior to their implementation.

For general guidelines in preventing harassment of all types, all HR managers should understand:

- *What is, and isn't, a hostile work environment.* A hostile work environment can exist even if no employees have yet complained. HR managers and supervisors have a legal duty to stop anything that could generate charges of harassment.
- *The company policy.* The company's harassment policy should be as familiar to supervisors as their own work schedules. Sometimes, supervisors know there is a policy but have little idea of what it entails. If the operation is sued, and supervisors cannot display a good understanding of the company policy, then it will likely be viewed by the courts as not having been enforced.
- *The impact on unions.* If you are unionized, how supervisors deal with harassment can have a lot to do with how well management gets along with the union and the number of grievances filed. If you are not unionized, failure to address harassment creates a workplace that can be ripe for union organization.

- *The effect of speech.* Just about everyone who works has heard coworkers or customers use language that could be considered inappropriate, hostile, sexist, racist, ethnically charged, crude, gross, insensitive, age-based, or derogatory. HR managers need to know and inform their supervisors about the specific types of language that will likely lead to charges of harassment in their own operation.
- *Proper investigations.* Properly conducted harassment investigations are essential to limiting an operation's legal liability. It should be clear who will investigate claims, what should be done if the supervisor is the target of the investigation, at what point legal counsel should be involved, and whether, when applicable, the supervisor can continue to oversee the complaining employee during the investigation.
- *Personal liability.* When a harassment case results in a lawsuit, the operation will be sued, but in most cases, so will the supervisor and/or HR manager. If you are the individual in charge of the operation, this can be the case even though you weren't the harasser, did not know about the situation, and the employee allegedly being harassed did not report directly to you.

Earlier in this chapter, you learned about the concept of zero-tolerance (harassment) policies. A legitimate question for workers who will be disciplined or fired if they violate their company's zero-tolerance policy is:

“When, exactly, does the language used or action displayed constitute harassment?”

This question can be difficult to answer, because not all employees would find the same behavior offensive. For example, some culinary employees (male and female) might find that hearing coworkers swearing while working the entrée station in the kitchen during a busy Saturday night rush is very offensive and thus potentially harassing, whereas others may not find it to be so.

The courts have addressed this question and have instituted a **reasonable person** standard. Thus, in determining whether conduct is considered hostile environment harassment, the courts, as well as the EEOC, typically evaluate the objectionable conduct from the standpoint of a “reasonable person” under similar circumstances. Under this standard, complaining employees must establish not only that they personally perceived their work environment to be hostile, but also that a reasonable person would have perceived it to be hostile as well.

Interestingly, a few courts have adopted a “reasonable woman” standard to use instead of the reasonable person standard for sexual harassment cases. In *Ellison v. Brady* (1991), the U.S. Ninth Circuit Court concluded that offensive conduct must be evaluated from the perspective of a reasonable person of the same gender as the victim. That court rejected the reasonable person standard, because it does not take into consideration the different perspectives of men and women.

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**Reasonable person (standard):** The typical, or average, person (and their behavior and beliefs) placed in a specific environmental setting.



## Human Resources Management: CURRENT EVENTS 10.2

### RIGHTS OF THE ACCUSED?

Everyone would agree that harassment, of any type, has no place in a work environment. Managers should understand, however, that a charge of sexual harassment is not synonymous with an incident of sexual harassment any more than being accused of a crime means the accused is automatically guilty of it. Because of perceived abuses by some who have charged harassment, and the response of some employers, the state and federal courts are increasingly defining the rights of the accused in sexual harassment cases. The rights of accused individuals vary by state. In Ohio, for example, state law requires that the accused have the right:

1. *To be free from discrimination.* For example, an employer cannot punish the accused more harshly than someone outside of the accused's protected class. In other words, if the accused is a 60-year-old manager and the business's owner has condoned the same or similar behavior by his own young son, then the owner must treat the 60-year-old manager in the same way. Similarly, for example, blacks may not be treated differently from whites when assessing whether harassment occurred or how it will be dealt with.
2. *To a thorough investigation.* An employer cannot conduct a "Kangaroo Court" (i.e., a mock or unauthorized justice proceeding) without risking a jury second-guessing what the employer might have found if it had looked at all of the facts. This is so because it is simply naïve to believe that there have never been unfounded charges of harassment.
3. *To a good-faith basis for believing that the allegations are true before taking adverse employment action.* This is especially true if the employee can point to a "just cause" employment contract. In Ohio, the employer's policies and conduct can create such a contract.
4. *To be free from defamation.* An employer should not share information about an investigation with anyone other than those who have a need to know the results.

Certainly, the rights of the accused in harassment cases are still in their infancy and have a long way to go before they are fully developed by case law. For now, employers have a clearer duty to protect employees from harassment, which carries far greater penalties if it is breached, than to protect the rights of the accused. Therefore, employers are well advised, in cases that are not clear-cut, to continue to err on the side of protecting the victim in a harassment case. Increasingly, however, employers will be legally required to keep the rights of the accused in mind as well, especially as the number of same-gender harassment cases wind their way through the court systems.

In all cases, a company will be held liable for a hostile work environment created by its workers if it knew (or should have known) that the harassment was occurring and it did not take reasonable action to stop it. Thus, a swift and appropriate resolution of harassment complaints is the best way to ensure a secure work environment and to protect your company from liability. For example, in *Tutman v. WBBM-TV* (2000), the Seventh Circuit Court held that the employer in the case was not liable for a racially hostile work environment because it took “prompt and



## Human Resources MANAGEMENT ISSUES (10.2)

“You’ve got to be kidding me!” said Jodi Waldo.  
 “It’s no joke,” replied Bob Zollars, the Regional VP of HR for Richland Hotels.

Jodi and Zollars were discussing the lawsuit that had just been filed by Ann Roberts, a former employee at the hotel, which Jodi managed for Richland. The lawsuit, claiming sexual harassment and constructive discharge, named as defendants Select Hotels, the hotel’s franchise company; Richland Hotels, which owned Jodi’s property as well as 10 others; and Jodi Waldo, the hotel’s general manager. Jodi had just discovered she was named personally in the suit.

“Essentially,” said Zollars, “the lawsuit maintains that you should have known about the harassment Ann claims she encountered and that you should have stopped it.”

“But I didn’t know anything about her claims,” replied Jodi. “How can she try to sue me?”

“She isn’t *trying* to sue you,” replied Zollars. “She already is suing you—and our company too. What you and I need to discuss now is whether you want to utilize our company attorneys for your defense or hire your own lawyer?”

### QUESTIONS

1. Some HR managers are surprised to hear that they can be held personally liable for their actions at work, even when those actions are taken as the result of direct instructions from their boss or when events occur of which they are simply unaware. Assume you are Jodi Waldo. What factors would you consider before electing to utilize your own attorney to address the charges leveled in this lawsuit?
2. Consider the “constructive discharge” charge filed by Ann Roberts. Should there be written records of the incidents leading to her allegation, as well as management’s response? What would it mean if such records do not exist?
3. Assume you are Bill Zollars. Would your primary concern in this situation be the liability exposure of this hotel’s general manager, that of your company, or the future of your own career? Explain.

appropriate” action to remedy the harassment, including reporting the incidents to supervisors, conducting an immediate investigation, and taking appropriate disciplinary actions.

Managers should use zero-tolerance harassment policies to take action even for offensive conduct that does not meet the legal standard of a harassing environment. The reason is that even mild forms of harassment that go unchecked can disrupt an operation through decreased morale and productivity and increased employee turnover.

For example, HR managers can take disciplinary action against employees who occasionally use obscene language or tell off-color jokes, even if that conduct would not generally constitute illegal harassment unless the employees engaged in it on an ongoing basis. Utilizing this approach goes well beyond the legal standard for harassment, and it emphasizes the expectation, at all times, of respectful and professional behavior in the workplace. When implemented, such policies should apply to customers, guests, and on-site vendors as well.

Before concluding our examination of zero-tolerance harassment policies, it is important to note that use of such policies is not devoid of its own legal issues. In fact, their use can create unique litigation issues of their own. If, for example, you are taking disciplinary actions against the perpetrators of harassment, the question of appropriate punishment is often legitimate. In fact, the term *zero tolerance* could make it more difficult to defend a case on appeal, because a third party (judge or jury) could conclude, however mistakenly and inappropriately, that you did not consider a penalty appropriate for the particular harassment offense.

Consider a female who had worked for a company for 10 years, had a stellar record, and who admitted to telling a single off-color joke to a longtime friend and coworker (but within earshot of other employees). If that employee were reported and treated (under the zero-tolerance policy) in exactly the same manner as a supervisor in the same operation who was found to have traded choice work assignments for sexual favors, one might argue that the policy would have resulted in a punishment that did not fit the crime.

There are other possible consequences. The term *zero tolerance* might appear to eliminate any flexibility you have in dealing with highly complex and difficult situations, even when that is not the policy’s intent. Consider the case of two coworkers who date for several years, then break up, with the immediate result that one of these workers charges the other with harassment because of pestering designed to continue the dating relationship.

Lastly, another potentially undesirable side effect is that, in some cases, the appearance of inflexibility can actually discourage employees from reporting incidents because they do not want to get their coworker fired; they simply want the behavior stopped. This may discourage generally collegial coworkers from reporting the actual occurrence of harassing behavior. As a result, some companies have changed wording in their harassment policies from:

To ensure a quality workplace, this company has a policy of “zero” (no) tolerance of any objectionable harassing behavior.

To wording such as:

To ensure a quality workplace, this company simply will not tolerate harassing behavior; as a result, all reports of harassing incidents will be taken seriously and dealt with appropriately.

## PREVENTING WORKPLACE VIOLENCE

### Workplace

**violence:** Any act in which a person is abused, threatened, intimidated, or assaulted in his or her place of employment.

**Implicit (threat):** A threatening act that is implied rather than expressly stated. For example, the statement: "I'd watch my back if I were you!" said in a menacing voice by one employee to another.

**Explicit (threat):** A threatening act that is fully and clearly expressed or demonstrated, leaving nothing merely implied. For example, the statement: "If I see you in my work area again, I'll personally throw you out of it!" said in a menacing voice by one employee to another.

While harassment, in the belief of many, is most often considered verbal abuse at work, HR managers must increasingly concern themselves with **workplace violence**, a concept that includes harassment, physical assault, and even homicide.

Just as some managers think of harassment as a verbal attack, some managers think of violence only in terms of a physical assault. However, workplace violence is a much broader problem. It occurs any time a worker is abused, threatened, intimidated, or assaulted in his or her place of employment. Workplace violence includes:

- *Threatening behavior.* Includes actions such as shaking fists, destroying property, or throwing objects.
- *Verbal threats.* These can include **implicit threats** or **explicit threats** made in person or left on answering machines or as cell phone messages.
- *Written threats.* These can consist of everything from Post-It notes, to e-mails, to long letters.
- *Harassing activities.* These can include a wide range of behaviors that demean, embarrass, humiliate, annoy, alarm, or verbally abuse a person and that are known or would reasonably be expected to be unwelcome (including sexual harassment). This can include words, gestures, intimidation, bullying, or other inappropriate activities.
- *Verbal abuse.* This includes swearing, insults, or condescending language.
- *Physical attacks.* These can include hitting, shoving, pushing or kicking, rape, or homicide.

Spreading rumors, playing pranks, inflicting property damage, vandalism, sabotage, armed robbery, theft, physical assaults, psychological trauma, anger-related incidents, rape, arson, and murder are all examples of workplace violence.

Managers should understand that workplace violence is not limited to incidents that occur within a traditional workplace. Work-related violence can occur at off-site business-related functions such as conferences and trade shows, at social events related to work, and in clients' offices or away from work but resulting from work (e.g., a threatening telephone call from an employee to another employee's home or cell phone).

Angry employees pose serious threats to workers. The seriousness of the threats can be demonstrated by the fact that workplace homicide is the leading cause of death among female workers in the United States and is the second leading cause of death, at work, for men. For example, according to the Bureau of Labor Statistics'

(BLS) most recent detailed data, 856 employees were murdered on the job in 1997, and of those, 731 (85 percent) died during robberies. Among those killed during robberies, 46 percent worked in the retail trade, such as convenience stores, gas stations, and fast-food restaurants. Another 17 percent worked in the service industry, which includes taxi service, hotels, auto repair, and guard services. Of the remaining 15 percent of workplace homicides, 10 percent involved vindictive customers and coworkers, and 5 percent involved angry relatives and acquaintances. In addition, about 18,000 employees were nonfatally assaulted *every week* while on the job.

Every hospitality workplace must be protected from disgruntled workers and customers, but, as the events of 9/11 clearly demonstrated, workplaces must now be prepared to face the traditional internal workplace threats and the external threat of terrorism. Certainly, effective HR managers should take reasonable steps to protect their workers from violence. In the hospitality industry, these steps can include concrete activities such as the following:

- Install bulletproof glass and limited-access barriers for drive-thru windows (restaurants) and late-night-accessible front desk areas (hotels).
- Increase workplace security by installing video surveillance, alarm systems, and door detectors.
- Increase lighting in dimly lit areas such as parking lots and around trash dumpsters.
- Trim back bushes and shrubs that provide hiding places for would-be thieves and attackers.
- Locate drive-thru windows (restaurants) within the same building as the restaurant, rather than in the parking lot by themselves.
- Implement effective alcohol server training programs to prevent and discourage excessive alcohol consumption (bars and restaurants).
- Train room attendants to keep guest room doors open when cleaning occupied rooms (hotels).
- Minimize the amount of cash available to cashiers (all businesses).

Specific actions that can be taken to help deter workplace violence are important, but it is also important to understand that, in most cases, workplace violence is committed by a business's current and former employees. Because that is true, it is equally critical that HR managers in hospitality implement written workplace violence policies for current employees.

At the very least, an effective workplace violence policy will detail:

- What specific behaviors (e.g., swearing, intimidation, bullying, harassment, and the like) management considers inappropriate and unacceptable in the workplace
- What employees should do when incidents covered by the policy occur
- Who should be contacted when reporting workplace violence incidents (including a venue for reporting violent activity by one's immediate supervisor)
- That threats or assaults that require immediate attention should be reported to the property's security department (if applicable) or directly to the police at 911

While these points will cover the basic minimum of a workplace violence policy, the best workplace violence prevention policies will:

- Be developed by management and employee representatives.
- Apply to management, employees, customers, clients, independent contractors, and anyone who has a relationship with the operation.
- Define exactly what is meant by workplace violence in precise, concrete language.



## Human Resources MANAGEMENT ISSUES (10.3)

Charles Lapinski was the district manager for a franchised quick-service Mexican-style restaurant in a large city. On a Friday night at 11:30 P.M., just after the restaurant locked its front doors to the general public, three masked men entered the store through the unlocked back kitchen door. They demanded that the assistant manager on duty at the time turn over all of the restaurant's cash. Nervously, the 19-year-old assistant manager explained that all of the cash had been deposited in a safe in the manager's office and that he had no ability to open it.

Angry at their inability to rob the restaurant, the gunmen, one of whom was a former employee, shot two of the restaurant workers, including the assistant manager, as they fled the restaurant. The assistant manager later died from his wounds. The attempted robbery and shooting made that night's local television news.

A lawsuit filed by the assistant manager's parents charged that the restaurant lacked proper alarms and locks on the back door. In addition, they charged that the restaurant owners and the franchise company failed to provide any training to its staff regarding the proper response to an armed robbery. The lawsuit was reported in a front-page article in the local paper.

An investigative reporter from another television station in the city called the restaurant's general manager to request an on-air interview regarding the training the restaurant's employees receive related to robberies. The manager referred the call to Mr. Lapinski.

### QUESTIONS

1. What issues do you think the courts and a jury would likely consider as they evaluate the legitimacy of the parents' lawsuit?
2. What is the likely outcome if Mr. Lapinski refuses to meet with the investigative reporter? What if Mr. Lapinski has not been properly trained to do so?
3. Assume you were the HR manager assigned to Mr. Lapinski's district; what would you advise him to do regarding this investigative reporter's request?

- Provide clear examples of unacceptable behavior.
- State in clear terms the operation's view toward workplace violence and its commitment to preventing workplace violence.
- Precisely state the consequences of making threats or committing violent acts.
- Encourage the reporting of all incidents of violence.
- Outline the confidential process by which employees can report incidents and to whom.
- Ensure that no reprisals will be made against those employees reporting workplace violence.
- Outline the procedures for investigating and resolving complaints.
- Describe how information about potential risks of violence will be communicated to employees.
- Commit to provide support services to victims of violence.
- Describe an active and effective Employee Assistance Program (EAP) to allow employees with personal problems to seek help.
- Demonstrate a commitment to monitor and regularly review the policy.
- Describe any regulatory or union-related requirements related to the policy (if applicable).

Unfortunately, no matter how carefully an operation is managed, or what attempts at prevention are made, workplace violence will continue to occur. When it does, hospitality managers must be prepared to deal with its effects and the aftermath of these crisis events.

## HUMAN RESOURCES TERMS

The following terms were defined in this chapter:

<b>OSHA</b>	<b>Evacuation plan</b>
<b>Zero tolerance</b>	<b>Post-traumatic stress disorder (PTSD)</b>
<b>Carpal tunnel syndrome</b>	<b>Hostile work environment (sexual harassment)</b>
<b>Automated external defibrillator (AED)</b>	<b>Quid pro quo (sexual harassment)</b>
<b>Wellness programs (employee)</b>	<b>Reasonable person (standard)</b>
<b>Safety</b>	<b>Workplace violence</b>
<b>Security</b>	<b>Implicit (threat)</b>
<b>Crisis</b>	<b>Explicit (threat)</b>
<b>Emergency plan</b>	

### For Your Consideration

1. Some business owners believe that OSHA has too much power to dictate the manner in which employers operate their business. In your opinion, what limits, if any, should apply to OSHA's ability to dictate employee-related safety and security activities on the job? Defend your answer.
2. Assume you are a unit manager in a hospitality organization and that a talented young assistant manager reporting to you approached you and confessed that he was struggling with a substance abuse problem. The employee also states that he wants help from the company's EAP to overcome it.

Assume also that, previously to this, your evaluation of the employee was that he was ready to assume responsibility for his own unit. Would the fact that the employee was seeking to enroll in your company's EAP affect your assessment of his readiness for promotion? Explain the reason for your answer.

3. Some companies have gone as far as refusing to employ (or continuing to employ) workers who these companies know engage in legal, but unhealthy activities (such as drinking or smoking) while off the job. To ensure that the employees do not engage in such behavior, the workers in such companies must agree to submit to random testing. Do you feel employers have a right to force employees to conform to prescribed off-the-job behaviors? Would your reaction change if the employer's health insurance company would provide, at significantly lower premiums to the employer and employee, enhanced employee coverage for those employers who implemented such lifestyle-monitoring programs?
4. Assume that a testing company approached you and indicated they had developed a test to predict, with a high degree of but not perfect accuracy, the likelihood that individuals you employ would be prone to commit an act of workplace violence. Assume also that the cost of implementing such an employee-testing program was quite reasonable. Would you purchase such a test for use in your operation? Would you terminate a current employee who tested poorly (i.e., tested as likely to commit an act of workplace violence)? Explain why or why not.

### Case Study: Human Resources Management in Action

"If he touches me again, I'm going to deck him," said Angela Larson, a cocktail server at the Windmere Casino, as she walked into Peggy Richards office. "He's creepy."

"He" was Roger Sheets, corporate vice president of operations for Jennus Casino Management, the operator of the casino, as well as the immediate supervisor of Peggy Richards, the casino's general manager.

Angela was a very attractive, single mother of two who had worked at the casino for three years. Her coworkers considered her to be very friendly, and her attendance was excellent.

Tom Delaney, the casino's HR manager, had brought Angela to Peggy's office. The day before, Angela had approached Tom regarding Roger's last visit to the casino. Tom had called Peggy to give her a heads-up about the meeting's purpose. According to Angela, this was not the first time Roger had gotten close or brushed up against Angela while talking to her on the casino floor.

But during Roger's last visit to the casino, he had put his hand on Angela's back while he asked her about her future career goals and indicated that, if she really wanted to advance, he would be glad to discuss her future career goals, over dinner, away from the casino. This he said as, according to Angela, his hand trailed a good bit lower than her back.

"When I first met Roger, he seemed really nice, and we had really friendly conversations about me, my kids, and my ex. But now, well, I can handle the normal flirting of customers," said Angela to Peggy. "I'm pretty touchy-feely myself. You know, patting a customer's arm when I deliver a drink—that kind of thing. I know most of my customers are harmless, and I can deal with the ones who aren't, but this is different. Ms. Richards, you know I really need this job, and I think Roger was implying that if I didn't have dinner with him, well, I don't know for sure. But I do know he needs to keep his hands off my backside!"

"I talked to a lawyer friend, who I'm dating now," Angela continued, "and he said it's definitely sexual harassment, and that I needed to report it. My lawyer friend said the company needs to fire him or I should sue, and I'd win. A lot of money. So I'm officially reporting him."

### ***Dimension: Employee Protection***

Review the scenario described in the case study, and then address the following questions:

1. What evidence is there, in this case, of a hostile work environment?
2. What evidence is there, in this case, of *quid pro quo* harassment?
3. Discuss the specific advantages and disadvantages to Angela Larson if she initiates an EEOC sexual harassment charge (or lawsuit) in this case.

### ***Dimension: Management Response***

Review the conversation described in the case, and assume that the Windmere Casino has a zero-tolerance harassment policy:

1. What are the most important rights of Angela Larson that must be protected?
2. What are the most important rights of Roger Sheets that must be protected?
3. If you were Peggy Richards, how would you advise Tom Delaney to proceed?

**Dimension: Company Protection**

Assume that you are the CEO of Jennus Casino Management, and Roger Sheets was hired by and reports to you. In your best-case scenario:

1. What would you like to see Peggy Richards and her HR director do next?
2. Assume that, when approached, Roger Sheets denies that the conversations and actions reported by Angela Larson ever took place. Would you instruct your corporate attorneys to defend, at company expense, him and your corporation in any forthcoming legal action brought by Angela Larson?
3. What specific steps would you instruct your corporate-level HR director to take to minimize the chances that a problem such as this would occur again?

**INTERNET ACTIVITIES**

1. Healthy worksites are not only important to employees, but they also often directly affect the safety of guests. In the hospitality industry, one of the most devastating events that can affect a foodservice operation is a foodborne illness outbreak, and specifically, one caused by either *E. coli* bacteria or a Norovirus. Even if your area of hospitality specialization is not food production, you should understand the sources of foodborne illnesses and how to prevent them. The National Restaurant Association provides free information about how to do just that. To access some of their food safety-related information, go to: [www.restaurant.org/food\\_safety/how\\_to\\_pathogens.cfm](http://www.restaurant.org/food_safety/how_to_pathogens.cfm).
  - a. Select “E. coli” and read the information presented there.
  - b. Select “Norwalk (noro) Virus” and read the information presented there.
 

After you have read the information presented about the subject areas you selected, answer the following questions:

    - a. What similarities exist between how each of these threats can be controlled?
    - b. How could you, as an HR manager, evaluate your own operation’s efforts to prevent a foodborne illness caused by either *E. coli* bacteria or a Norovirus?
    - c. What, specifically, would you do if you found out that your operation’s efforts at prevention in this area were deficient?
2. The recordkeeping requirements of OSHA do change. Some organizations create and sell resources to help HR managers stay abreast of such changes. To view one such resource, go to: [www.ailandcorp.com](http://www.ailandcorp.com)
  - a. Select “Products.”
  - b. Then scroll down to “OSHA Log” sc.

Then read that section as well as the other benefits listed.

- a.** Would you buy such a product if you were responsible for HR management in your organization?
    - b.** What factors would influence your decision to do so?
  - 3.** From food safety issues to employee violence, hospitality managers face increasing challenges related to guest and worker safety. To view one of the sites that continually identifies the best workplace safety-related training information for those in the hospitality industry, go to: *www.hospitalitylawyer.com*.
    - a.** Select “Safety and Security Marketplace” from the Solution Store.
    - b.** Review the publication, “Adams Fact Book 2005.”

Alcoholic beverages and their service result in significant safety and security risks for many hospitality operations. Visit the Adams Fact Book Web site, review the book’s table of contents, and then answer the following questions:

      - a.** How extensive is the book’s coverage about alcoholic beverages and their service?
      - b.** What is the cost of this resource?
      - c.** Describe the type of hospitality manager or hospitality operation(s) for whom such a resource would be valuable.