



HOSPITALITY LAW

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Week 1:

Hospitality Manager and Legal Management



SAMANTHA RAPHELSON (2018) ,Advocates Push For Stronger Measures To Protect Hotel Workers From Sexual Harassmenthttps://media.npr.org/assets/img/2018/06/29/gettyimages-77378126_custom-e03436a1a27a80fae995614d76f664fd22b03f35-s800-c85.webp

THE FUTURE HOSPITALITY MANAGER AND THE LEGAL ENVIRONMENT

- ❖ Today more than ever before, hospitality managers must be multitalented individuals. In addition to knowledge of their own designated area of expertise, such as food and beverage, marketing, accounting, or rooms management, hospitality managers are often called upon to assume specialized roles, such as employee counselor, interior designer, facility engineer, or computer systems analyst.
- ❖ Given the complexity of the modern business world, it is simply a fact that the skill level required for success today in this field is greater than it was in the past.

Con't

- ❖ Hospitality management has always been a challenging profession. Whether in a casino, a school lunch program, a five - star hotel, a sports stadium concession program, or myriad other environments, hospitality managers are required to have a breadth of skill not found in many other areas of management.
- ❖ Hospitality managers are in charge of securing raw materials, and producing a product or service and selling it — all under the same roof. This makes them very different from their manufacturing counterparts (who are in charge of product production only) and from their retail counterparts (who sell, but do not manufacture, the product).

Con't

- ❖ Additionally, hospitality managers are called upon frequently to make decisions that will, in one manner or another, impact the legal standing of their employers.
- ❖ **Robert James**, founder of one of the largest hotel contract management companies in the United States, once estimated that **60 to 70** percent of the decisions he made on a daily basis **involved some type of legal dimension**. This is not to say that hospitality managers need to be attorneys. They do not.
- ❖ However, the decisions that **they make may or may not increase their organization 's chances of needing the services of an attorney**.

Reflection scene

Consider the situation where a hospitality manager is informed that a guest has slipped and fallen in an area of the dining room containing a salad bar. It appears that the guest had been serving himself and slipped on a piece of lettuce dropped by a previous guest:

- Was this a simple accident? Could it have been prevented?
- Is the restaurant responsible? What medical attention, if any, should the manager be prepared to provide?
- What if the injuries are severe? Should the restaurant be held responsible?
- Can the restaurant manager be held personally responsible? What, if anything, should the employees do?
- Who is responsible if the employees were not trained in what to do?

❑ From this example, it is clear that the hospitality manager is in a position to profoundly influence the legal position of the operation. Day after day, in hundreds of situations, the actions of hospitality managers will influence the likelihood of the business or the manager becoming the subject of **litigation**.

❑ **Litigation:** The act of initiating and carrying on a lawsuit. Often, used to refer to the lawsuit itself

Historical Origins of the Law: King Hammurabi of Babylon (Iraq) 1792-1750 BCE



Zeenath Zakir (2021), History of Law, https://bmkltly13vb.compat.objectstorage.ap-mumbai-1.oraclecloud.com/cdn.dailymirror.lk/assets/uploads/image_bf7a8b59b9.jpg

Historical Origins of the Law (cont')

- ❑ **Common law and civil law** are the **two** major systems of law in place in the Western world.
- ❑ Common law is the body of law that **descended from that in Great Britain** and is used in the **United States and most countries in the British Commonwealth.**
- ❑ Civil law descended from that in **the Roman Empire** and is used by most Western European countries, as well as Latin America, Asia, and Africa

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- ❑ It can generally be said that common law comes from **reviewing past litigation** that has been decided by the courts.
- ❑ It is greatly interested in precedent, or what has been **decided in previous court cases** with similar situations or facts
- ❑ In civil law, decisions evolve based on **written laws or codes**. Judges in civil law feel less bound by what others have decided before them and more **compelled by the law as it has been established by government bodies**.
- ❑ **Law:** The rules of conduct and responsibility established and enforced by a society.,

(cont')

- ❑ **Hospitality law:** Those laws that relate to the industry involved with the provision of food, lodging, travel, and entertainment services to its guests and clients
- ❑ The law is **not** static; in fact, it changes frequently.
- ❑ Managers must stay **abreast of these changes** so that ultimately, on a daily basis, they integrate their acquired knowledge and **awareness** of the law into a personal style of management and decision making.

PREVENTATIVE LEGAL MANAGEMENT

- ❖ Future hospitality managers will encounter laws that do not currently exist.
- ❖ How then can they be expected to operate their facilities in full compliance with the law throughout their career?
- ❖ Just as important, how can they be expected to manage these facilities in a way that will minimize their chances of doing something illegal?
- ❖ The answer is not to attempt to monitor every legislative body empowered to enact law.
- ❖ The answer is **to operate hospitality facilities in a way that combines preventative legal management with sound ethical behavior.**

PREVENTATIVE LEGAL MANAGEMENT (con't)

- ❑ The acronym **STEM** was coined as an easy way to remember the steps in a decision-making process that can assist managers in getting started.
- ❑ It stands for: **select, teach, educate, and manage.**
- ❑ It is presented here as a way of beginning to “STEM” the tide of litigation

STEM the Tide of Litigation

- ❑ This philosophy of preventative management becomes even more important when one considers that a great many litigation matters encountered by hospitality operators have a common denominator: **a poorly prepared employee.**
- ❑ Injuries and the resulting damages, whether financial, physical, or mental, are usually a consequence of an employee who has not been sufficiently taught to perform his or her duties.
- ❑ He or she may make an **omission**, such as not cleaning up a spill near a salad bar, or he or she may pursue an activity outside the scope of his or her duties, such as **sexual harassment or arguing with a customer**

Applying the STEM Process in Hospitality Management

A process can be implemented that will help **reduce** employee errors and omissions and, therefore, **litigation and liability**.

- 1. Select:** Managers can begin reducing litigation by selecting the right employee for the right job.
- 2. Teach:** Managers must develop proper training methods for employees, including feedback devices such as competency testing, to ensure that the training is effective.
- 3. Educate:** Managers must continuously educate themselves so that they know which topics and procedures must be passed on to employees through effective teaching methods.

4. **Manage:** Effective managers know that if you consistently do things the right way, the chances for mistakes—and therefore for litigation—will diminish.

- ❑ To create an environment conducive to motivation, you must first establish **trust and respect**. When managers make a commitment to employees or guests, they must follow through.
- ❑ They also must be willing to accept responsibility for their mistakes, and to apologize for them when appropriate. Managers **must set an example**: If a manager asks employees to be on time, then the manager must also be on time; if managers expect employees to pay for food, beverages, and services, then they must also pay for food, beverages, and services. In current parlance, **managers must walk the talk!**

Manage by Motivation!

Examples of possible motivational efforts include:

- ❖ A sales contest with a significant prize.
- ❖ A parking space with recognition for the employee of the month.
- ❖ 50 percent discount on meals at the restaurant.
- ❖ A card on their birthday.
- ❖ A written “pat on the back” for a job well done.
- ❖ Taking the time to ask them how their day was.
- ❖ Involving employees in setting goals.
- ❖ Seeking employee input in developing work schedules.
- ❖ Listening to their concern

Manage by Motivation!(con't)

- ❖ All of those listed and others are the types of activities a manager should undertake to build the trust and loyalty of employees
- ❖ The goal of **STEM** is to reduce employee mistakes.
- ❖ By continually encouraging and rewarding good performance, managers can create an environment that will, in fact, reduce the number of times employees make mistakes, **then Litigation cases are reduced!**

Let analyze the situation 1.1

A fellow supervisor confides in you that he has been arrested a second time in two years for driving under the influence of alcohol. His current case has not yet gone to trial. This supervisor is responsible for the late-night closing of the restaurant in which you both work. You know bars in your city close at 2:00 A.M., the same time the restaurant closes.

1. Should you discuss this situation with the restaurant's general manager?
2. Which aspect of STEM is relevant here?

Your comments on situation 1.1

ETHICS AND THE LAW

- ✓ It may not always be clear whether a course of action is **illegal or simply wrong**.
- ✓ Put another way, an activity may be legal, but still be the wrong thing to do.
- ✓ As a future hospitality manager who seeks to manage his or her legal environment and that of other employees, it is important that you be able to make this distinction.
- ✓ **Ethics** refers to the behavior of an individual toward another individual or group.
- ✓ **Ethical behavior** refers to behavior that is considered “right,” or the “right thing to do.”

ETHICS AND THE LAW (con't)

- ❖ In cases of litigation, **juries may have to make determinations of whether a manager's actions were intentionally ethical or unethical.** How juries and judges decide these questions may well determine their view of a **manager's liability** for an action or inaction
- ❖ While it may sometimes be difficult to determine precisely what constitutes ethical behavior, the following seven guidelines can be very useful when evaluating a possible course of action: **1. Is it legal? 2. Does it hurt anyone? 3. Is it fair? 4. Am I being honest? 5. Would I care if it happened to me? 6. Would I publicize my action? 7. What if everyone did it?**

- ❖ Consider the hospitality manager who is responsible for a large wedding reception in a hotel. The bride and groom have selected a specific champagne from the hotel's wine list to be used for their champagne punch. The contract signed by the bride and groom lists the selling price per gallon of the punch but does not specifically mention the name of the champagne selected by the couple. In the middle of the reception, the hotel runs out of that brand of champagne. A less costly substitute is used for the duration of the reception. Neither the bride and groom nor the guests notice the difference.
- ❖ Using the seven ethical guidelines just listed, a manager could evaluate whether he or she should reduce the bride and groom's final bill by the difference in selling price of the two champagnes.

- ❖ How an individual determines what constitutes ethical behavior may be influenced by his or her cultural background, religious views, professional training, and personal moral code



LAUREN HUBBARD (2022),The Best Champagne For All of Your Celebrations,
https://hips.hearstapps.com/hmg-prod/images/tc-champagne-brands-2-1544808366.jpg?crop=1.00xw:1.00xh;0,0&resize=1200:*

Let analyze situation 1.2

Assume that you are the food and beverage director of a large hotel. You are planning for your New Year's Eve gala, and require a large amount of wine and champagne. You conduct a competitive bidding process with the purveyors in your area, and, based upon quality and price, you place a very large order (in excess of \$20,000) with a single purveyor. One week later, you receive a case of very expensive champagne, delivered to your home with a nice note from the purveyor's representative stating how much they appreciated the order and that they are really looking forward to doing business with you in the years ahead. What do you do with the champagne?

Your comments on situation 1.2

- Your first thought may be the most obvious one—that is, you drink it. But, hopefully, you will first ask yourself the **seven questions** of the ethical decision-making process
 - ❖ **1. Is it legal?**
 - ❖ **2. Does it hurt anyone?**
 - ❖ **3. Is it fair?**
 - ❖ **4. Am I being honest?**
 - ❖ **5. Would I care if it happened to me?**
 - ❖ **6. Would I publicize my action?**
 - ❖ **7. What if everyone did it?**

What are some of the realistic alternatives to keeping the champagne?

- ✓ Return it to the purveyor with a nice note stating how much you appreciate it, but that your company policy will not allow you to accept it.
- ✓ Turn the gift over to the general manager to be placed into the normal liquor inventory (assuming that the law will allow it to be used as such).
- ✓ Donate it to the employee Christmas party.

Screenshot: Club Managers Association of America- Code of Ethics (some examples)

We shall promote community and civic affairs by maintaining good relations with the public sector to the extent possible within the limits of our club's demands.

We will strive to advance our knowledge and abilities as Club Managers, and willingly share with other Association members the lessons of our experience and knowledge gained by supporting and participating in our local chapter and National Association's educational meetings and seminars.

We will not permit ourselves to be subsidized or compromised by any interest doing business with our clubs.

We will refrain from initiating, directly or through an agent, any communications with a director, member or official of another club regarding its affairs without the prior knowledge of the Manager thereof, if it has a Manager.

We will advise the national Headquarters, whenever possible regarding managerial openings at clubs that come to our attention. We will do all within our power to assist our fellow club managers in pursuit of their professional goals.

We shall not be deterred from compliance with the Law, as it applies to our clubs. We shall provide our club officers and trustees with specifics of Federal, State and Local laws, statutes and regulations, to avoid punitive action and costly litigation.

We deem it our duty to report to local or national officers any willful violations of the CODE OF ETHICS.

The following statement is designed to reaffirm and further implement Hyatt Corporation's ("Hyatt") standing policy of strict observance of all laws and ethical standards applicable in jurisdictions in which the Corporation conducts its business. This statement is applicable to all of Hyatt's subsidiaries, affiliates and divisions, operating both inside and outside the United States (the "Corporation") and is applicable to all officers and employees of the Corporation. Unless amended by the Board of Directors of Hyatt, this statement and the compliance therewith is subject to no waivers or exceptions in the name of competitive or commercial demands, social traditions, or other local exigencies.

1. Policy Statement to Conduct Business in Accordance with all Laws and Complete Honesty

It is the policy of the Corporation to conduct its business in accordance with all applicable laws and regulations of the jurisdictions in which such business is conducted and to do so with complete honesty and integrity and in accordance with the highest moral and ethical standards.

2. Use of Corporate Assets

No corporate funds, assets, services or facilities (including, for the purposes hereof, without limitation, complimentary items, discounts and amenities), shall be used, directly or indirectly, for any unlawful or unethical purpose. Any question as to the legality or ethics of any contemplated use of corporate funds, assets, services or facilities shall be referred to Hyatt's general counsel.

CMAA Code of Ethics (2019), Hospitality Law: Club Managers Association of America Code of Ethics, p11, figure 1.2-1.3, <https://www.pdfdrive.com/hospitalty-law-managing-legal-issues-in-the-hospitality-industry-e157128399.html>

WHAT WOULD YOU DO?

Assume that your local municipality is considering the passage of a law that would prohibit the sale of all tobacco products from the interiors of bars and restaurants, but not grocery stores. The restaurant you manage has a cocktail lounge, and cigarettes are both consumed and sold in that section of your restaurant. There is no current effort to prohibit smoking in cocktail lounges, such as the one you operate. You are considering whether to address the local government body charged with creating such legislation: **1. What are the major considerations you will think about before you decide to support or oppose the proposed legislation? 2. Will the fact that you do or do not smoke influence your position? 3. Which ethical issues are in play here?**

Your comments.....!

References

[1] STEPHEN BARTH (2009), Hospitality Law: Managing Legal Issues in the Hospitality Industry , p 1-17 , <https://www.pdfdrive.com/hospitalty-law-managing-legal-issues-in-the-hospitality-industry-e157128399.html>

[2] Yogesh Sharma (2014), Contemporary Hospitality Industry & Hospitality Law, https://www.researchgate.net/publication/281267458_Contemporary_Hospitality_Industry_Hospitality_Law

Thank you!

Next lecture: Hospitality Contracts

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