

AVOIDING WORKPLACE VIOLENCE: TIPS AND BEST PRACTICES FOR HOSPITALITY EMPLOYERS

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Whether internal or external, violence in the workplace is an increasingly problematic issue that employers must learn to effectively minimize and prevent. This is even more important in the hospitality industry, given the constant interaction with the public, the high rate of turnover, and the added responsibility of dealing with available cash. It is imperative that employers recognize and understand the need to take constant and active steps to address both internal and external potential threats of workplace violence.

Keeping the workplace safe from violent incidents requires hospitality employers to be able to identify warning signs and risk factors. But the work starts before that; it starts with the hiring and employee monitoring processes.

BEFORE AND AFTER YOU HIRE: INTERNAL THREATS OF VIOLENCE

Internal threats of workplace violence require separate considerations from external threats. Preventing internal threats of violence generally requires a focus on pre-employment screening, employee monitoring, and effective employee training. Hospitality managers can think about this as occurring in two phases: before the hire and after the hire.

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Before You Hire

An important time to begin taking measures to prevent and minimize workplace violence is during the hiring process. Effective pre-employment screening can help you avoid hiring employees with “red-flag” behavior. Some steps that hospitality employers can take to avoid future instances of workplace violence include:

- 1. Criminal history and background checks.** You are permitted to conduct criminal history and background checks for job applicants. While federal law prohibits the use of this information in ways that would discriminate against or disparately affect protected classes (e.g., race and national origin), you can use previous convictions, and sometimes arrests, as a screening tool, on a case-by-case basis, where such convictions may relate to an essential job requirement. With the level of daily customer contact present in the hospitality industry, properly conducted criminal history screenings, particularly where there is a history of violent crime, can work to prevent future incidents of workplace violence. Note, however, that state and local laws often govern the use of background checks by employers, so you should consult with legal counsel on best practices for implementing this screening tool.
- 2. Social media.** There are currently no federal laws that prevent you from monitoring the social media activity of prospective and current employees. Despite valid privacy concerns and the potential for bias, the social media accounts of both potential and current employees can provide a wealth of information for employers. In the hospitality industry, a large majority of the employees are millennials who are often more comfortable portraying their true thoughts through a computer screen. Through these sites, you may possibly learn of the potential violent predispositions that job applicants may have. A job applicant’s social media presence can demonstrate to you whether warning signs like fascination with

violence, for instance, are present. This applies equally to current employees.

It is important to note, however, that the use of social media as a pre-employment screening tool or a monitoring device for current workers comes with a number of potential pitfalls that you must work diligently to avoid. A potential employee's social media can also alert employers to information such as the employee's race, religion, gender, disability, sexual orientation, pregnancy status, etc., none of which can be taken account in the decision to hire an applicant. Moreover, a current employee's social media feed might reveal private information you might not want to know for fear that your knowledge could be used against you in a later discrimination or retaliation claim. Therefore, you should consult with legal counsel before deciding to implement any sort of social media screening.

After You Hire

Because warning signs of future workplace violence are not always apparent before you hire, you must still take steps to monitor their current employees for potential signs. In the stressful environment of the hospitality industry, it does not take much for a simple disagreement between line cooks in the kitchen to turn into knives being pulled against a coworker. A few tips for employers:

1. 1. 1. You should implement and maintain an effective workplace violence plan. This plan will contain outright bans on certain "trigger" behavior such as harassment, fighting, threatening, and bullying—and outline the discipline for such behavior. The plan may also contain a ban on employees carrying weapons on your premises as well. The plan should provide conflict resolution tips and strategies for employees to use to deescalate a stressful situation.

2. You should train employees on how to identify and report “suspicious behavior,” some of which can include a fascination with violence, excessive verbal threats to other employees or against restaurant patrons, substance or alcohol abuse, obvious indicators of mental instability, or a history of poor impulse control or violence. In training employees on how to identify and report suspicious behavior, you should also have an effective procedure for handling employees that have been reported:

- First, management needs to take all threats seriously;
- Where the reports are of internal conflicts, harassment, or bullying, you need to work quickly to understand the root of the conflict and diffuse it; and
- You should discipline as appropriate in order to clearly demonstrate that any such violent behavior will not be tolerated.

3. Employee training should also include training on conflict resolution between other employees in the workplace. Effective conflict resolution training is necessary to aid employees in immediately deescalating situations that may arise in the workplace. Importantly, these skills can also be used when dealing with the public. In training employees on how to effectively manage conflict and deescalate potential acts of violence, you should adopt the following training guidelines:

- Where tempers are running high, it is best to separate the employees and give them space to calm down;
- It is important to understand what the nature of the conflict is;

- Extreme care should be taken not to pass blame or take sides; and
- Management should be informed about the situation as soon as practicable.

The high rate of turnover in the hospitality industry presents an added layer of responsibility as it relates to dealing with internal threats of violence, because you must ensure that your new employees are constantly being trained. As such, you should consider implementing both a new-hire training schedule, as well as periodic refresher trainings.

WHEN IT IS OUT OF YOUR CONTROL: EXTERNAL THREATS OF VIOLENCE

Because hospitality employers welcome the public, monitoring external threats of violence is extremely important. It only takes one angry customer or even a random criminal act to result in serious incidents of workplace violence. Some best practice tips:

1. 1. 1. 1. 1. Just like you have a fire evacuation plan, you should also have plans for other emergencies like active shooters, robberies, or other violent workplace incidents. For instance, your staff should know where to go, who is responsible for contacting emergency services, and where the emergency equipment (e.g., first aid kits) are located. A comprehensive workplace plan is a useful tool in making such designations. Ideally, a workplace plan should contain a procedure for employees to follow in the event of an incident of violence and should identify a designated manager or other responsible employee who will coordinate evacuation or other employee safety efforts, and initiate or maintain contact with law enforcement.

2. Many hospitality businesses operate at late hours, so it is important to structure employee shifts in order to avoid employees closing alone or working in isolated areas late into the night.
3. As with internal threats of violence, it is also important to train employees on effective conflict resolution and deescalating incidents between employees and the patrons, or among patrons. While factors such as whether alcohol is served or not may play a role in how extensively employees should be trained, it is advisable to have at least some level of conflict resolution training.
4. Hospitality operations, like other cash-heavy businesses, are also targets for robbers. You need to keep this in mind and train your employees to be cognizant of how they handle cash in front of customers and other members of the public. Employees also need to be trained on who to contact in case of criminal attacks, and how to behave during attempted robberies in order to deescalate the situation.
5. Where financially practicable, you should consider investing in onsite, visible security. This could include visible security cameras but can go as far as security guards. Having such visible security can serve as a major deterrent for both internal and external acts of workplace violence. Even where it is not financially practicable to make such security investments, you should still consider having this kind of visible security on special occasions where the risk of violence may be heightened—e.g., Super Bowl Sunday, St. Patrick’s Day, New Year’s Eve, etc.

CONCLUSION

It is important to note that some instances of workplace violence cannot be reasonably foreseen or prevented, mostly due to the unpredictability of human nature. While careful background screenings, social media review, and even putting in place effective policies and procedures for times of violent incidents will go a long way to minimize the occurrence and impact of these incidents, they cannot prevent against some of the recent incidents of workplace violence covered by the media. Regardless, you have steps you can take to prevent and minimize the impact of incidents that may be within your control.

Because several legal issues may arise with an employer's decision to both implement effective pre-employment screening tools and construct workplace violence plans, you should consult with legal counsel as you develop these procedures. If you need assistance with how to implement best practices to combat workplace violence, contact your Fisher Phillips attorney.

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