



HOSPITALITY LAW

MANAGING LEGAL ISSUES IN
THE HOSPITALITY INDUSTRY

Fifth
Edition

STEPHEN BARTH
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WILEY

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5th Edition

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Managing Legal Issues in the Hospitality Industry

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Hospitality Law: Managing Legal Issues in the Hospitality Industry, Fifth Edition, was written to help teach hospitality students what they need to know to manage a facility legally, safely, and securely.

In the day-to-day operation of a hospitality facility, it is the manager, not the company attorney, who will most influence the legal position of the operation. Rarely will you find a hospitality manager who is also a licensed attorney. However, professional hospitality managers (and, by extension, their staffs) make decisions every day based on their own interpretation of the law. The quality of these decisions will ultimately determine whether lawyers and the expense of fees, trials, and potential judgments may become necessary. A few examples will help illustrate this fact:

- A restaurant guest is unhappy with the quality of service provided during his meal. He complains to the manager and angrily demands his money back, but his meal has been eaten.
 - Is the guest legally entitled to a refund?
- A hotel guest maintains that a \$50 bill she had left on her bedside table was gone when she returned to her room after going out for lunch.
 - Is the hotel required to replace the funds?
- A resort employee is arrested by the local police for driving under the influence of alcohol. He is employed by the hotel as a van driver but was not on duty at the time of the arrest.
 - Should the hotel suspend his employment?
- A hotel food and beverage director is presented a bottle of rare and expensive wine as a Christmas gift from her linen vendor.
 - Can she legally accept the gift without threatening her employment status?
- A franchise restaurant owner receives a letter from her franchisor stating that the “casual Friday” dress code policy recently adopted by the owner is in violation of the franchise agreement.
 - Must the owner change her policy?

These examples are just a few of the thousands of legal issues that daily confront hospitality managers. Obviously, it would be very expensive to consult an attorney each time a legal issue arises. It is also true, however, that making the wrong decision in any of these cases could result in tremendous costs in legal fees and settlements or in costly negative publicity. Because that is true, a hospitality student’s and a professional manager’s greatest need is to understand how they can act in ways to ensure that they are managing legally in the hospitality

industry. **Hospitality Law: Managing Legal Issues in the Hospitality Industry, Fifth Edition**, will show them how.

New to This Edition

Organization: The **Fifth Edition** maintains the more logical flow that was developed in the prior editions. Throughout the book, changes to the law have been updated and revised to ensure that the most current information is presented.

Web exercises: Each of the Search the web exercises have been updated to ensure accuracy and enrich the learning experience. Strategic links have also been added to ensure they are current as the law changes between editions.

Access to actual legal cases: Summaries of actual legal cases are now a part of the instructor’s manual and will be useful in a class setting to further illustrate and practically apply the law. In addition, faculty and students are able to access an annual case summary of over 100 of the most significant hospitality case decisions made during a particular year by logging into Solutions at <http://hospitalitylawyer.com/solutions/find-academic-resources/hospitality-law-textbook-support/>, then the Find Academic Resources section, and then clicking on the blue highlighted text Hospitality Law Textbook Support, and finally Referenced Cases on **hospitalitylawyer.com**, where you will also find downloadable PowerPoints and links to the cases cited in the book.

International Snapshots are included for each chapter to give the instructor and students a different perspective on legal issues. Each of these was contributed by practicing attorneys or professionals in their field and describe the differences between U.S. law and the international arena in general or as it compares to a particular foreign country.

Travel and tourism: Continuing the trend on globalization, Chapter 13, “Legal Responsibilities in Travel and Tourism,” has an added dimension, including medical tourism and corporate travel risks. Chapter 15, “Managing Insurance,” has added information on cyber insurance.

Additionally, information on relevant recent events and trends has been added throughout, including:

- Evolving laws on the use of cannabis
- Obamacare (The Patient Protection and Affordable Care Act)
- Do’s and Don’ts of media interaction

- Human Trafficking concerns
- Sharing Economy (ex. Airbnb and Uber)
- Trade secrets used by former employees
- Data privacy and security breaches
- Allergy, nutrition, and all new food labeling concerns in the food and beverage arena
- Terrorist attacks, travel warnings, and the PATRIOT ACT
- Employment discrimination including pregnancy and genetic information
- USERRA update

The Conceptual Developmental Process

After teaching hospitality law for several years, we recognized the need for a different kind of resource that could be used to teach hospitality students what they need to know about managing in today's litigious environment. Accordingly, this book is built around *interactive pedagogy*, which *exposes readers to realistic scenarios*.

Before developing the first edition of ***Hospitality Law: Managing Legal Issues in the Hospitality Industry***, a survey of attorneys and human resource directors at the top 100 U.S. hospitality organizations was completed. The participants were asked to identify the primary areas they felt were critical to a hospitality student's legal education and training. The most significant areas of interest focused on the ability to manage correctly and, thereby, reduce the potential for legal liability.

Thus, **preventing liability through a proactive management of the law** is the dominant theme of this textbook. In all cases, where issues of content, writing style, and design were involved, the touchstone for inclusion was simply: "Does this add to a student's ability to do the right thing?" If so, it was considered critical; if not, it was quickly deemed superfluous. For that reason, this book will look and read very differently from any other hospitality law textbook on the market. The legal information in it has been carefully selected and classroom tested to be clear, understandable, and easy to apply. This book exposes the reader to many realistic scenarios that hospitality managers regularly face.

Creating an Interactive Learning Environment

This textbook has been designed as a necessary tool for a hospitality law course that will foster an attitude of *compliance and prevention* in work ethics and personal management philosophy. Compliance and prevention means gaining an understanding of how to prevent or limit your legal liability by complying with legal norms. Instead of approaching the topic

of hospitality law from a traditional case study viewpoint, this book provides a necessary understanding of the basic foundations and principles of the laws affecting the hospitality industry. Following the presentation of basic principles, the text goes on to provide guidelines and techniques that show how to manage preventively and apply a practical legal awareness prior to taking action.

Much of the book's effectiveness as a learning tool relies on participating in an interactive learning process. Several different types of learning features and exercises intended to help develop a pattern of behavior are included. Their purpose is to teach you to consider the legal implications of day-to-day management activities. Finally, in recognition of the importance of technology, a number of activities showcase the value of the computer as a lifelong learning tool.

Chapter Outline. Each chapter begins with an outline that helps demonstrate how topics fit together in the context of the overall subject.

In This Chapter You Will Learn. This section is more than just a list of learning objectives. This feature identifies concrete skills and necessary information that will have been gained after studying the chapter. This demonstrates how the information will be useful in management careers.

Legalese. Legal definitions are provided, written in simple language to help develop the vocabulary and understanding needed to follow the law.

Analyze the Situation. These hypothetical but realistic scenarios illustrate how a legal concept just encountered in the textbook is relevant to situations that are likely to arise in the hospitality industry. In many cases, we have intentionally made the facts ambiguous to present a challenge and encourage thinking through the situation and fostering discussion in the classroom.

Search the Web. Every chapter includes interactive Search the Web exercises, which provide URLs to a carefully chosen collection of Internet sites that hospitality managers can use to find guidelines, access information, or learn more about the hospitality industry and the law.

Legally Managing at Work. These sidebars contain practical legal guidelines for managers, covering a variety of situations that directly relate to restaurant and hotel operations. Topics range from recommended steps for managers when responding to guest injuries or health emergencies, legal guidelines for drawing up contracts, and dealing with the media during an emergency situation.

In this section, checklists, step-by-step procedures, and written forms will demonstrate how to create policies and respond to situations in a manner that will help ensure compliance with the law and protect businesses.

International Snapshot. An attorney or industry professional has compared U.S. legal practices with the same practices in the international community at large or a specific country. This section will create an enhanced perspective.

What Would You Do? These realistic decision-making scenarios ask readers to put themselves in a situation that requires them to apply the legal principles they have learned in the chapter. Many include a concrete activity, and all contain questions that require a personal decision in a set of circumstances that may be faced in future careers.

What Did You Learn in this Chapter? The main ideas and objectives of each chapter are briefly summarized here. The summary can be used as a supplement to, but not as a substitution for, a thorough review of the chapter material.

Stay in touch with Stephen Barth. Follow him on Twitter @hospitality_law!

Instructor's Materials

To help instructors manage the large number of exercises, activities, and discussion questions posed in this textbook, an *Instructor's Manual* is also available to qualified instructors on the Wiley website at www.wiley.com/college/barth. This site also includes PowerPoint slides and an updated Test Bank.

Instructors who adopt ***Hospitality Law, Fifth Edition***, can download the Test Bank for free.

Acknowledgments

Please welcome Diana S. Barber to the 5th Edition of *Hospitality Law*.

Diana is the consummate Hospitality Lawyer, having focused on the industry in her private practice, serving as in-house counsel for Ritz-Carlton, all the while researching, publishing, and teaching to assist the industry and its customers.

This edition, like the four before it, was truly a community effort. It would be impossible to thank everyone who over the years has provided me, and now us, with insight or ideas that made this book possible. Accordingly, for those of you we fail to mention personally, please know that it was not an intentional oversight.

First, many thanks to David Hayes for his contributions to *Hospitality Law*, and for helping to make this book a success.

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This edition is dedicated to Diana S. Barber. Welcome aboard!

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Prevention Philosophy

1.1 The Future Hospitality Manager and the Legal Environment

“Hospitality law is a legal and social practice related to the treatment of a person’s guests or those who patronize a place of business. Related to the concept of legal liability, hospitality laws are intended to protect both hosts and guests against injury, whether accidental or intentional.”¹ In other words, hospitality law is the body of law relating to the foodservice, travel, and lodging industries governing the specific nuances of transportation, hotels, restaurants, bars, spas, theme parks, country clubs, conventions, events, and more.

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 on 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.

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, 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). Perhaps most important, the hospitality manager has direct contact with guests, the ultimate end users of the products and services supplied by the industry.

Additionally, hospitality managers are called on 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 a hospitality manager

CHAPTER OUTLINE

- 1.1. The Future Hospitality Manager and the Legal Environment
- 1.2. The Hospitality Manager and Legal Management
- 1.3. Ethics and the Law

IN THIS CHAPTER, YOU WILL LEARN

- 1. Why the study of laws related to hospitality is important.
- 2. The historical origins of the law and its evolutionary nature.
- 3. A philosophical framework to help prevent legal difficulties before they begin.
- 4. How to evaluate management actions on an ethical basis.

¹ https://en.wikipedia.org/wiki/Hospitality_law

needs to be an **attorney**. He or she does not. However, the decisions made may or may not increase the organization's chance of needing the services of an attorney.

Consider the situation in which 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? Most important, what should the manager actually do when the incident is brought to his or her attention? 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**.

There is a unique body of law relating to the foodservice, travel, and lodging industries. These laws have developed over time as society and the courts have sought to define the relationship between the individual or business serving as the host and the individual who is the guest. This textbook will give you up-to-date information on the most important of those special laws and relationships. That is not to imply, however, that this book is designed to make you a lawyer. What it will do, if you use it properly, is train you to think like one. It will teach you to consider carefully how the actions taken by you and those you work with will be viewed in a legal context. The industry's very best legal educators, hospitality managers, writers, and reviewers have created this book especially for you. They all speak with one voice when they say, "Welcome to the exciting world of hospitality management!" As an industry, we need your skill, ability, and creativity. This textbook, if studied carefully, will help you become the hospitality manager you deserve to be and that our industry and guests require you to be.

1.2 The Hospitality Manager and Legal Management

Jack P. Jefferies, who served for more than 20 years as legal counsel for the American Hotel and Lodging Association

(AH&LA), has stated: "Over 135,000 new federal and state laws are issued annually, as well as hundreds of thousands of federal and state administrative rules."² With this much change in the **law**, some believe that the topic is too complex to learn in an introductory course or from one book. In addition, they would argue that because the law is constantly changing, even if an individual learned the law today, his or her knowledge would be out of date in a very short time.

Although these positions are understandable, they argue for, not against, the future hospitality manager's study of legal management.

Although the law is indeed complex, certain basic principles and procedures can be established that will minimize a manager's chances of encountering legal difficulty. Since it is possible to prevent legal difficulty by anticipating it beforehand, it is less important to know, for example, the specific rules of food safety in every city than it is to know the basic principles of serving safe food. No one, not even the best lawyer, can be expected to know everything about every area of the law. In the same way, hospitality managers are not required to have a comprehensive knowledge of every law or lawsuit that impacts their industry. What they must know is how to effectively manage their legal environment. To begin this journey, it is important to grasp three key concepts:

1. Laws have historical origins, and managers need to know them.
2. Laws have an evolutionary nature, based on changes in society.
3. It is possible to use a philosophy of preventative management to manage the legal environment and minimize the chances of litigation.

Historical Origins of the Law

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 has descended from the law created in Great Britain and is used in the United States and most countries in the British Commonwealth. Civil law is descended from the law created in the Roman Empire and is used by most Western European countries, as well as Latin America, Asia, and Africa. Although both legal systems certainly defy oversimplification, it can generally be said that common law comes from reviewing past litigation that has been decided by the courts. It is greatly

² Jack P. Jefferies, *Understanding Hospitality Law*, 3rd ed. (East Lansing, MI: The Educational Institute of the American Hotel and Lodging Association, 1995).

LEGALESE

Attorney: Any person trained and legally authorized to act on behalf of others in matters of the law.

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

Law: The rules of conduct and responsibility established and enforced by a society.

Common law: Laws derived from the historical customs and usage of a society and the decisions by courts when interpreting those customs and usages.

Civil law: The body of law (usually in the form of codes or statutes) created by governmental entities that are concerned with private rights and remedies, as opposed to criminal matters.

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. Given the nearness of countries within Europe and the influence of the British Empire, it is no wonder that these two great legal systems frequently operated in close proximity, which has often blurred their distinctions. Interestingly, the term *civil law* is actually used in the common law system to refer to private law (or private disputes), as opposed to public or criminal matters.

Common law developed in England following the Norman Conquest. In common law, the principle of **stare decisis** is followed. A decision made by a higher court must be obeyed by all lower courts. In this manner, citizens know which actions are legal and which are punishable. Essentially, the purpose of the common law was to interpret and enforce rules related to the granting of land by the British monarchy to those subjects deemed worthy of such land grants. The barons who received this land would often grant parts of it to those they felt were deserving. The courts that were created at this time were charged with overseeing the peaceful resolution of disputes regarding land, inheritance, marriage, and other issues related to land grants.

Between 1765 and 1769, an Englishman, Sir William Blackstone, wrote four volumes he titled the *Commentaries*. In these books, Blackstone sought to compile a general overview of all the common law of his time. Blackstone's work formed the basis for much of the law in the New World, as his work migrated there with the English colonial settlers. Laws related to those in the hospitality industry were, of course, included.

Despite the anger against Britain that resulted in the Revolutionary War, the colonists of the soon-to-be United States embraced the common law as their favored rules of conduct and responsibility. Blackstone's work was widely used as a textbook in the law schools of the new country, and it influenced many of its early law students, including Thomas Jefferson, John Marshall, James Monroe, and Henry Clay. Inevitably, succeeding generations throughout the history of the United States have taken the common law as they have found it and modified it to meet the needs of their ever-changing society.

Evolutionary Nature of Common Law

It should come as no surprise that a rapidly changing society will often revise its rules of conduct and responsibility. This is true in society as a whole and in how society views the

hospitality industry. In the United States of the 1850s, obviously, one would not have been expected to find a law requiring a certain number of automobile parking spaces to be designated for people with disabilities seeking to enjoy an evening meal at the town's finest restaurant because the world in that era contained neither the automobile nor the inclination of society to grant special parking privileges to those who were disabled. In today's society, we have both. What changed? First, the physical world changed. We now have automobiles along with the necessity of parking them. More significant, however, is the fact that society's view of how people with disabilities should be treated has changed. Parking ordinances today require designated "disabled" parking spaces, generally located close to the main entrances of buildings to ensure easy access. Not only is it good business to have such spaces, but current laws also mandate that the hospitality manager provide them.

Another example of evolving law is that certain state laws now allow their citizens to use cannabis oil, hemp oil, and other related substances that have historically been and are still on the federal list of prohibited drugs for consumption. Consumption is sometimes regulated and restricted to medicinal purposes, but some states have legalized or decriminalized the use of cannabis or marijuana for personal recreational purposes. Hospitality managers need to be familiar with their own state's laws and how these laws affect operations and employment situations.

In this case, parking requirements grew out of a law created at the federal government level. The law is called the **Americans with Disabilities Act (ADA)**. This act, and its many applications to hospitality, will be discussed in greater detail in Chapters 7 and 10, "Legally Selecting Employees" and "Your Responsibilities as a Hospitality Operator to Guests." It is mentioned here to illustrate that laws evolve just as society evolves. Changes in society lead to changes in the law.

Search the Web 1.1

Go to the Internet. Search for categories related to laws regulating tobacco use and sales in your state, city, and/or county.

Assignment: Draft a one-paragraph essay summarizing the laws governing tobacco use in your state. Are there any special stipulations that a hospitality manager would especially want to be aware of (such as the designation of smoking and non-smoking areas in a restaurant or public lobby)?

LEGALESE

Stare decisis: The principle of following prior case law.

Americans with Disabilities Act: Federal legislation (law) that protects the rights of people with disabilities so that they may be treated fairly in the workplace and have access to places of public accommodation, such as hotels, restaurants, and airplanes.

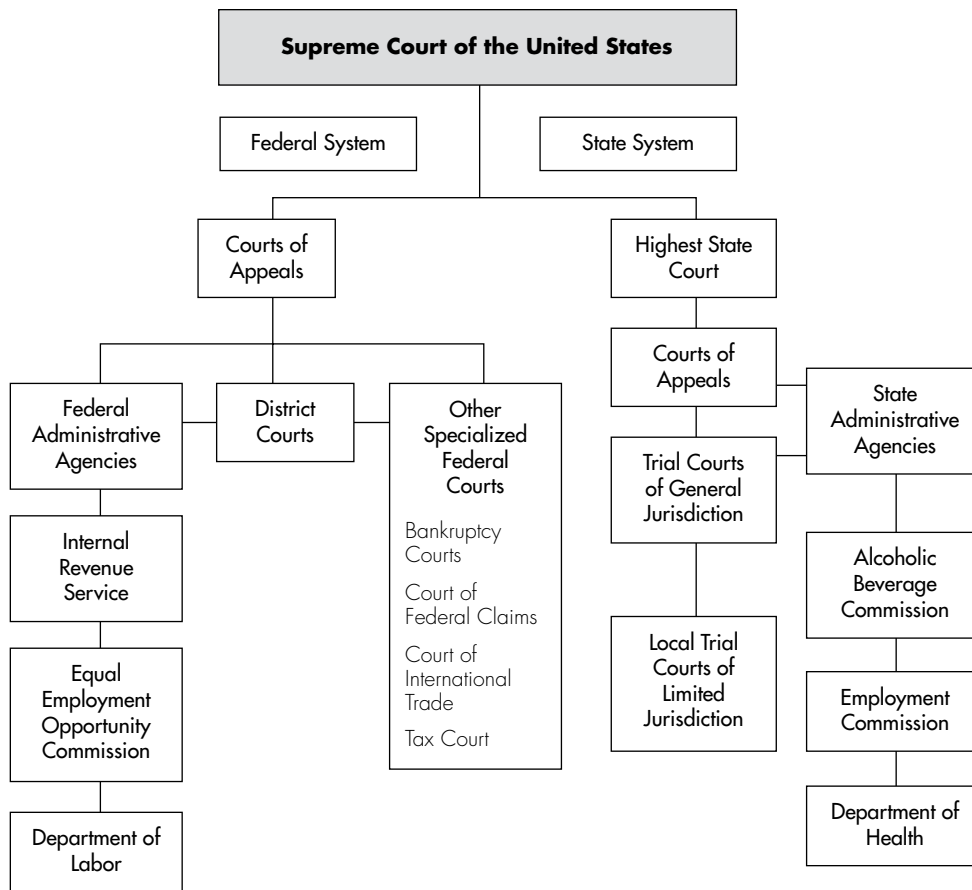


FIGURE 1.1 The U.S. legal system.

Laws in the United States may be enacted at the federal, state, and local levels (see Figure 1.1).

At each of these levels, the laws reflect the changing desires of the citizens and their elected officials. Because society includes members who operate hospitality facilities, **hospitality laws** created and modified by society impact those who work in the hospitality industry.

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 and smart judgment.

LEGALESE

Hospitality law: Those laws that relate to the industry involved with the provision of food, lodging, travel, meetings, events, and entertainment services to its guests, employees, vendors, and clients.

Lessons from the Medical Field In the medical field, it is widely agreed that it is better to prevent a serious illness beforehand than to treat it after the fact. For example, doctors advise that it is preferable to prevent a heart attack through proper diet, exercise, and the cessation of smoking than for a patient to have a bypass operation after a heart attack has occurred. In the case of prevention, the doctor advises the patient, but it is, in large measure, up to the patient to put into practice the recommendations of the physician.

In a similar vein, it is far better for hospitality managers to operate their facilities in a way that minimizes the risk of litigation, rather than in a manner that exposes their operations to the threat of litigation.

STEM the Tide of Litigation As noted, 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. 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. The details of how STEM works are included in the box on page 5.

Legally Managing at Work

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. The process is called STEM, for *select, teach, educate, and manage*. It works like this:

1. *Select*: Managers can begin reducing litigation by selecting the right employee for the right job. Managers cannot hire “just anyone” at the last minute. Employees must be selected based on specific job qualifications, written job specifications, and information derived from a thorough investigation of the candidate for the position, whether the employee to be hired is a bus person, waitperson, hostess, door supervisor, or line supervisor.
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. Effective managers stay on top of all current happenings in the hospitality industry. One useful tool is the industry news and newsletters from www.smartbrief.com. You can sign up for free daily e-newsletters on most industry segment topics. For hotels, see www.smartbrief.com/ahla; and for restaurants, see www.smartbrief.com/nra.

4. *Manage*: Effective managers know that if you consistently do things the right way, the chances for mistakes—and, therefore, for litigation—will diminish. Management has been defined as consisting of four functions: planning, organizing, controlling, and motivating. Although all four have legal implications, the STEM process focuses almost exclusively on the motivating function. A manager who creates a supportive work environment will gain the trust and respect of employees, who will then be motivated to do their best work and thus avoid making errors that could result in litigation.

On any given day, the general manager of a hotel or restaurant in the United States will make decisions about hiring, firing, and/or providing benefits to employees. Other daily tasks might include approving a meeting space contract for a major event to be held on the property, an event that involves the service of alcohol. Decisions regarding if and when to add a lifeguard to the pool area, whether to subcontract parking services to a local valet company, and even the uniform requirements of staff, will all be made by the manager. All of these seemingly independent decisions have a significant common denominator—they all have legal implications.

Whether it is opening a restaurant, operating a country club, or hiring a housekeeper, hospitality managers must be aware of the legal implications of each and every decision they make. It is of vital importance that managers resolve to be fair, to operate within the law, and to manage preventatively. On occasions when they do not and a lawsuit results, the courts may hold managers **liable** for their inattentiveness.

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 might make an omission, such as not cleaning up a spill near a salad bar, or might pursue an activity outside the scope

of his or her duties, such as sexual harassment or arguing with a customer.

The recent increasing number of lawsuits is not caused solely by employees, of course. The legal system and some attorneys certainly share the blame. Managers, however, bear most of the responsibility for what has been occurring. When an employee makes a mistake, often it is the result of management error. The wrong person was hired for the job, the duties of the job were not effectively communicated to the employee, the employee was not properly trained, or the employee was not effectively supervised or motivated to do the job properly.

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 managers ask employees to be on time, then managers must also be on time; if managers expect employees to pay for food, beverages, and services, then he or she must also pay for food, beverages, and services. In current parlance, managers must walk the talk!

Finally, all of the planning, organizing, controlling, and motivating in the world will not help if management cannot effectively communicate its vision and plan to the employees who will carry out that vision. The ability to communicate with skill and grace is a critical component of being a successful manager.

Today’s culturally diverse workforce will require diverse motivating techniques. Remember that different people are motivated by different incentives. Money is a perfect example. To some, it is a strong motivating factor; others would prefer more time off instead of additional pay. Managers must know their employees and determine—by asking them, if need

LEGALESE

Liable: To be legally responsible or obligated.

be—what will motivate them, both as individuals and as a work team. Examples of possible motivational efforts include the following:

- A sales contest with a significant prize
- A parking space with recognition for the employee of the month
- A 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 employees how their day was
- Involving employees in setting goals
- Seeking employee input in developing work schedules
- Listening to their concerns

All of those listed and others are the types of activities a manager should undertake to build the trust and loyalty of employees. If a consensus can be reached on what to do and how to do it, the motivating task becomes much easier.

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. Remember that even if a goal may be reached, the efforts of the individual or group still might merit praise. In other words, managers should try to catch their employees doing something right instead of trying to catch them doing something wrong.

It is not possible to manage effectively while sitting behind the desk. Effective managers know that “management by walking around” is alive and well, particularly in a service industry such as hospitality. Of course, an important part of managing is the ability to motivate employees. As much as managers would like all employees to come to the job every day brimming with enthusiasm, the fact is, too often, just the opposite is true. A significant number of employees may dislike coming to work, their jobs, their situation in life, and much more. They must be motivated to perform at the level management has targeted in order to exceed management’s own expectations, and, more important, those of the guest.

To recap the STEM process: Select, not just hire, the right employee for the right job; continuously teach employees while creating a training trail; educate management; motivate staff in a positive and nurturing manner. All these efforts will help foster loyalty and goodwill, while reducing the likelihood of litigation.

Analyze the Situation 1.1

A fellow supervisor confides in you that he has been arrested for 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.

1. Should you discuss this situation with the restaurant’s general manager?
2. After reading the next section on Ethics, has your answer changed?
3. Which aspect of STEM is relevant here?

1.3 Ethics and the Law

It is not always clear whether a course of action is illegal or simply wrong. Put another way, an activity might 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.” Consistently choosing ethical behavior over behavior that is not ethical will go a long way toward avoiding legal difficulty. This is true because hospitality managers often will not know what the law requires in a given situation. In cases of litigation, juries may have to make determinations of whether a manager’s actions

were ethical or deliberately unethical. How juries and judges decide these questions may well determine their view of a manager’s liability for an action or inaction.

Although it is sometimes 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?* Does the law or company policy prohibit this activity?
2. *Does it hurt anyone?* Will this action negatively affect any stakeholders?
3. *Is it fair?* Is it fair to all the stakeholders?
4. *Am I being honest?* Are you being honest with yourself and with the company?
5. *Would I care if it happened to me?* Would it bother you if you were the recipient of the action?
6. *Would I publicize my action?* Would you be embarrassed if stakeholders became aware of your action?
7. *What if everyone did it?* Could the business effectively operate in an equitable fashion?

LEGALESE

Ethics: Choices of proper conduct made by an individual in his or her relationships with others.

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. A complete example of the way someone would actually use the seven ethical guidelines is demonstrated in the following hypothetical situation.

An Ethical Dilemma: Free Champagne

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 on 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 it appreciated the order and that the purveyor is really looking forward to doing business with you in the years ahead. What do you do with the champagne?

Ethical Analysis Your first thought might 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?

From your perspective, it might not be illegal for you to accept a case of champagne. However, there could be liquor laws in your state that prohibit the purveyor from gifting that amount of alcoholic beverage. You must also consider whether it is permissible within the guidelines established by the company for which you work. Many companies have established gift acceptance policies that limit the value of the gifts that employees are eligible to accept. In this case, violation of a stated or written company policy may subject you to disciplinary action or even the termination of your employment. Accordingly, you need to be extremely familiar with the ethics policy that has been adopted by the company you are working for. Assuming that it does not violate a law and/or company policy, go to question 2.

2. Does it hurt anyone?

Well, it probably would not hurt you unless you drank all of the champagne at once; but, realistically, are you really

going to be fair and objective when you evaluate next year's bids, or is your mind going to be thinking back to the case of champagne that you received? Assuming that you do not think that it is hurting anyone, go on to question 3.

3. Is it fair?

Before answering this question, you have to recognize who the stakeholders are in this particular situation. How might others in your company feel about the gift you received? After all, you agreed to work for this firm at a set salary. If benefits are gained because of decisions you make while on duty, should those benefits accrue to the *business* or to *you*? Assuming that you have decided that it is fair for you to keep the champagne, go to question number 4.

4. Am I being honest?

This question gives you the opportunity to second-guess yourself when you are answering questions 2 and 3. Do you really believe that you can remain objective in the purchasing aspect of your job and continue to seek out the best quality for the best price, knowing that one of the purveyors rewarded you handsomely for last year's choice and may be inclined to do so again?

5. Would I care if it happened to me?

If you owned the company you work for and you knew that one of the managers you had hired was given a gift of this magnitude from a vendor, would you question the objectivity of that manager? Would you like to see all of your managers receive such gifts? Would you be concerned if they did?

6. Would I publicize my action?

If you have trouble remembering the other questions, try to remember this one. Would you choose to keep the champagne if you knew that tomorrow morning the headlines of your city newspaper would read: "Food and Beverage Director of Local Hotel Gets Case of Champagne after Placing Large Order with Purveyor"? Your general manager would see it, other employees would see it, all of the other purveyors that you are going to do business with would see it, and even potential future employers would see it.

7. What if everyone did it?

If you justify your choice of keeping the champagne, consider: Does this process ever stop? What would happen if the executive housekeeper had a bed delivered to her home every time she ordered new bedding for the hotel? What would happen if every time she ordered new washers and dryers, she received a matching set at home?

Alternative Options 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 this way).
- Donate it to the employee Christmas party.

Use the seven questions to evaluate each of these three courses of action. Do you see any differences?

Codes of Ethics

Some hospitality managers feel it is important to set their ethical beliefs down in a code of ethics or core values. Figure 1.2 is the code of core values developed by Meeting Expectations, an award-winning event management and association management company with headquarter offices located in Atlanta, Georgia.

In some cases, a company president or other operating officer will relay the ethical philosophy of a company to

its employees in a section of the employee handbook or through a direct policy statement, as illustrated in the ethics statement presented in Figure 1.3, which was created by Hyatt Hotels.

Notice that in both the Meeting Expectation's core values and in Hyatt's corporate policy, reference is made to the importance of complete honesty and integrity as well as following the law and legal rules. Laws do not exist, however, to cover every situation that future hospitality managers will encounter. Society's view of acceptable behavior, as well as of specific laws, is constantly changing. Ethical behavior, however, is always important to the successful guidance of responsible and profitable hospitality organizations.

Meeting Expectations Core Values

CORE VALUES

At Meeting Expectations, our team lives and works according to the following values:

1. We are customer driven. We will take action and feel a sense of urgency on matters related to our customers.
2. We respect the individual employee and believe that people treated with respect and given responsibility will respond by giving their best. We treat others as we would like to be treated.
3. We require complete honesty and integrity in everything we do. We insist on open and honest communication. Hidden agendas and gossip will not be tolerated.
4. We make commitments with care, and live up to them. When we discover a problem, we own that problem until it is resolved, even if it involves someone else doing the work.
5. We expect continuous improvement in our journey towards excellence.
6. We challenge ourselves and each other as it brings out the best in us. We look for others doing the right thing so that we can celebrate success along the way.
7. We insist on giving our best effort toward everything we do and take responsibility for our actions. We understand that even despite our best efforts, bad results may sometimes occur. Bad results are unacceptable if they are the consequence of sloppiness or lack of effort.
8. We are financially responsible with company and client funds and guard them with the same vigilance that we use to guard our own.
9. Clarity in understanding our mission, goals, and what we can expect from each other is critical to our success.
10. Work is an important part of life and should be enjoyed by striking a balance between fun and seriousness.

FIGURE 1.2 Meeting Expectations Core Values.

(Reprinted with permission from Meeting Expectations.)

Hyatt Hotels Corporation

Code of Business Conduct and Ethics 2013

INTRODUCTION

This Code of Business Conduct and Ethics (this "Code") is designed to reaffirm and promote Hyatt Hotels Corporation's compliance with laws and ethical standards applicable in all jurisdictions in which Hyatt Hotels Corporation and its subsidiaries (collectively referred to herein as "Hyatt") conduct their business.

FIGURE 1.3 Corporate policy for Hyatt Hotels.

(Reprinted with permission by Hyatt Hotel's General Counsel.)

This Code is applicable to all directors and officers of Hyatt, and all associates, including, without limitation, General Managers, members of the Management or Executive Committees and other persons (collectively, “associates”) who work in or are affiliated with any hotel, residential or vacation ownership property that is owned, leased, managed or franchised by Hyatt and operated under or in association with the “Hyatt,” “Hyatt Regency,” “Grand Hyatt,” “Park Hyatt,” “Andaz,” “Hyatt Place,” “Hyatt House,” “Hyatt Residence Club,” “Hyatt Zilara”, or “Hyatt Ziva” trademarks, or such other trademarks owned by Hyatt (individually referred to herein as a “Hotel” and, collectively, as the “Hotels”).

References in this Code to “you” and “your” refer to the officers, directors and associates of Hyatt. Similarly, references in this Code to “we” and “our” refer to Hyatt and the Hotels.

Hyatt operations and Hyatt associates are subject to the laws of many countries and other jurisdictions around the world. Associates are expected to comply with the Code and all applicable government laws, rules and regulations. If a provision of the Code conflicts with applicable law, the law controls.

Because Hyatt Hotels Corporation is incorporated in the United States, our associates around the world often are subject to U.S. laws. Other countries may also apply their laws outside their borders to Hyatt operations and personnel. If you are uncertain what laws apply to you, or if you believe there may be a conflict between different applicable laws, consult Hyatt’s General Counsel or any Associate General Counsel of Hyatt’s Legal Department, whose contact details are attached at the end of this document.

Seeking Help and Information

This Code is not intended to be a comprehensive rulebook and cannot address every situation that you may face. There is no substitute for personal integrity and good judgment. If you feel uncomfortable about a situation or have any doubts about whether it is consistent with Hyatt’s ethical standards, we encourage you to contact your supervisor. If your supervisor cannot answer your question or if you do not feel comfortable contacting your supervisor, contact the General Counsel or any Associate General Counsel of Hyatt’s Legal Department.

Reporting Violations of the Code

You have a duty to report any known or suspected violation of this Code, including any violation of the laws, rules, regulations or policies that apply to Hyatt. If you know of or suspect a violation of this Code, immediately report the conduct to your supervisor or in the event of a violation of Section 12, directly to the General Counsel or Vice President of Internal Audit. Your supervisor will contact the General Counsel or any Associate General Counsel of Hyatt’s Legal Department, who will work with you and your supervisor to investigate your concern. If you do not feel comfortable reporting the conduct to your supervisor or you do not get a satisfactory response, you should contact the General Counsel, any Associate General Counsel of Hyatt’s Legal Department, or Vice President of Internal Audit directly. All reports of known or suspected violations of the law or this Code will be handled sensitively and with discretion. Your confidentiality will be protected to the extent possible, consistent with applicable law and Hyatt’s need to investigate your concern.

We also have a website, www.hyattethics.com, and a dedicated toll-free number for those of you in the United States, 1-866-294-3528, available 24 hours a day, seven days a week, to provide you and vendors a way to anonymously and confidentially report activities that potentially may involve criminal, unethical or otherwise inappropriate behavior in violation of applicable law, and Hyatt’s established policies, including this Code. International toll-free numbers and specific reporting instructions and limitations for those reporting from outside the United States may be found on the website at www.hyattethics.com. In the event an international toll-free number is not available, you may call us collect at 503-726-2412.

Policy Against Retaliation

Hyatt prohibits retaliation against anyone who, in good faith, seeks help or reports known or suspected violations of this Code. Any reprisal or retaliation against anyone covered by this Code because such person, in good faith, sought help or filed a report will be subject to disciplinary action, which may include suspension or termination of association with Hyatt.

Amendments to and Waivers of the Code/Enforcement

This Code may be amended or modified only by the Board of Directors of Hyatt Hotels Corporation.

Waivers of this Code for associates may be made only by Hyatt’s General Counsel. The General Counsel will provide quarterly reports to the Audit Committee of such waivers. Any waiver of this Code for directors, executive officers or other principal financial officers of Hyatt Hotels Corporation may be made only by the Audit Committee of the Board of Directors or the Board of Directors of Hyatt Hotels Corporation, and will be disclosed to the public as required by law or the rules of the New York Stock Exchange.

Violations of this Code will be addressed promptly and, subject to compliance with applicable law or regulation, may subject persons to corrective and/or disciplinary action.

This Code supplements and does not supersede or replace the terms and conditions of any agreement signed by you and Hyatt. If you believe the terms of this policy conflict with any such agreement, you should contact Hyatt’s General Counsel.