

Preventing Sexual Harassment at Hotels: AHLA promises fall short of recommended best practices and don't describe duties for hotel owners

Sexual harassment is a pervasive issue in the hotel industry. More than 25 percent of sexual harassment charges filed in the past decade occurred in industries dominated by service-sector workers, according to an analysis of unpublished data on sexual harassment charges in the private sector filed with the US Equal Employment Opportunity Commission (EEOC).¹ Based on a survey conducted by UNITE HERE of nearly 500 women who work in Chicago hotels and casinos, women face a high level of sexual harassment, mainly from male guests: 58% of hotel workers and 77% of casino workers surveyed have been sexually harassed by a guest.²

In September 2018, the American Hotel & Lodging Association (AHLA) announced its “5-Star Promise,” a long overdue response to widespread sexual harassment and assault in the hotel industry. AHLA’s Promise contained a set of voluntary, non-binding recommendations lacking specific scope or timeframe for adoption and assigned no role or responsibility for hotel REITs, despite the risks and liabilities that sexual harassment holds for them:

- **The American Hotel and Lodging Association’s (AHLA’s) ‘Five Star Promise’** to victims of sexual harassment and assault does not acknowledge how “Trusted Advocates” like unions can play a critical role in combatting workplace sexual violence;
- AHLA’s Promise is weak on the principal established by EEOC research that responses to harassment should be prompt and proportionate to the severity of the harassment;
- AHLA’s Promise makes no commitment to an easily accessible, prompt and thorough complaint procedure;
- The AHLA does not include a mechanism for prevention of sexual harassment in its promise; and AHLA’s program is silent on the role of forced arbitration and non-disclosure in perpetuating sexual harassment.
- In 2018, Host Hotels and Resorts, the world’s largest hotel REIT opposed a shareholder proposal to increase disclosures about the impact on investors of hotel operators’ environmental, human rights, and labor practices.³
- Sunstone Hotel Investors, another hotel REIT, declined to share information about the costs of and risks to the REIT from sexual harassment claims by hotel employees despite a March 2017 settlement of a lawsuit by two female employees of the hotel alleging sexual harassment and threats of retaliation.⁴

Hotel Industry Proposals

In September 2018, the American Hotel & Lodging Association (AHLA), along with Hilton, Hyatt, IHG, Marriott and Wyndham, announced its commitment to improve employee safety in the industry, including measures designed to prevent and respond to sexual harassment and assault.⁵

The AHLA's "five-star" policy states that:

1. AHLA will continue providing industry-wide training and materials on safety and security matters, and retain expert guidance to work with AHLA and its members on workplace diversity and safety matters.
2. Hotel employers will ensure **mandatory anti-sexual harassment policies** are in place in multiple languages.
3. Hotel employers will provide ongoing **training and education** for employees on identifying and reporting sexual harassment.
4. Hotel employers will provide US hotel employees with **employee safety devices** to help them feel safe on the job.
5. The AHLA will broaden **vital partnerships** with wide-ranging national organizations that target sexual violence and assault and trafficking and promote workplace safety.⁶

Trusted Advocates Can Help Change Workplace Culture and Assist Victims Report Harassment

AHLA's 'Five Star Promise' relies on the industry to police itself and does not acknowledge how "Trusted Advocates" like unions can play a critical role in supporting employees combatting workplace sexual violence. Unions can help victims hold hotel employers and guests accountable for sexual harassment by passing legislation and by negotiating language in collective bargaining agreements. Both legislation and collective bargaining agreements legally bind employers to certain behavior and can empower employees as part of changing the culture of a workplace.

Legislation

In 2016, hotel workers and members of UNITE HERE Local 8 in Seattle passed legislation via a citywide ballot initiative, which contained requirements that hotels provide panic buttons to workers, record workers' reports of harassment and assault by hotel guests and reassign workers away from problem guests or ban guests when appropriate. It also gives workers advanced notice when known harassers return.⁷

Similar laws have been passed or have been introduced requiring panic buttons for hotel workers in Chicago, Miami Beach, Oakland and Long Beach.⁸

Collective Bargaining Agreement Language

UNITE HERE has negotiated language to protect workers against sexual harassment in its collective bargaining agreements with casinos and hotels in New York, DC, and Las Vegas. The collective bargaining agreement at MGM Grand Las Vegas requires the company to fully investigate every complaint of sexual harassment, train all employees yearly, and provide all policies in Spanish (spoken by many casino employees). It also allows the employee or union to resolve sexual harassment complaints via a formal grievance procedure.

EEOC: Responses to harassment should be prompt and proportionate to the severity of the harassment

The AHLA's promise mentions **nothing about disciplining perpetrators of sexual harassment in the workplace**, whether they are employees, employers, or guests at hotels. According to the EEOC, disciplining

perpetrators of harassment promptly and proportionately to the severity of the harassment is an essential step towards preventing sexual harassment at the workplace.⁹

Seattle's initiative 124 about safety and labor standards for Seattle hotel employees (passed in 2016 and referenced above), allows for the banning of guests who initiate harassment and gives employees advance notice when known harassers return.¹⁰

The EEOC recommends an easily accessible, prompt and thorough complaint procedure

The EEOC's report finds that upwards of 85% of employees who experience harassment at work never file a formal legal charge and approximately 70% of employees don't complain internally.¹¹ Therefore, the EEOC recommends employers communicate frequently on how to report harassment. Employers should create a complaint procedure that is clearly described with multiple accessible avenues of complaint and a prompt, thorough, and impartial investigation process. Employers should devote sufficient resources towards these investigations. The AHLA Promise makes no commitment to an easily accessible complaint reporting system or to a prompt investigation.

Mechanism for Prevention

The AHLA's Promise does not include a mechanism for the prevention of sexual harassment like the one established by the EEOC's research.

The EEOC recommends employers assess their workplaces for risk factors associated with harassment and explore minimizing risks. Employers should conduct climate surveys to assess the extent of harassment and should devote resources and staff time to harassment prevention efforts. Further, the EEOC recommends holding mid-level and front-line supervisors accountable for preventing and/or responding to workplace harassment through metrics and performance reviews, which would also provide a mechanism for prevention.¹²

AHLA Promise is silent on the role of forced arbitration and non-disclosure in perpetuating sexual harassment

American employers are increasingly requiring their employees to sign mandatory arbitration agreements. Under these agreements, workers whose rights are violated cannot pursue their claims in court but must submit to arbitration procedures that research shows overwhelmingly favor employers.¹³ According to the New York Times, "Forced arbitration lets companies keep harassment and discrimination claims out of court, effectively cloaking them from public view and, in some cases, allowing serial harassers to continue their conduct for years."¹⁴

In December 2017, Microsoft became the first most prominent company to eliminate forced arbitration agreements with employees who make sexual harassment claims. The movement to end forced arbitration agreements is growing with lawmakers taking up the issue and proposing legislation that would make forced arbitration in harassment cases unenforceable under federal law.¹⁵

The AHLA's response to the crisis of workplace sexual harassment falls short of recommendations made by the EEOC and other experts. Its five star promise to employees in the hotel industry does not properly tackle the issue of sexual harassment in a way that moves towards its prevention in the workplace.

Endnotes

- 1 <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>
- 2 Find this survey date? From Local 1 report
- 3 2018 Proxy Statement, Host Hotels and Resorts, Inc., April 6, 2018 Accessed <https://www.sec.gov/Archives/edgar/data/1070750/000119312518109348/0001193125-18-109348-index.htm>
- 4 UNITE HERE letter to John Arabia, President and CEO, Sunstone Hotel Investors, May 1, 2018.
- 5 <https://www.safetyandhealthmagazine.com/articles/17541-5-star-promise-hotel-companies-industry-association-pledge-to-improve-worker-safety>
- 6 <https://www.ahla.com/press-release/hotel-industry-announces-added-safety-measures-employees-builds-layers-security>
- 7 <https://www.seattleprotectswomen.org/about/>
- 8 <https://www.opendemocracy.net/beyondslavery/unite-here-local-8/seattle-fights-hotel-worker-harassment-with-new-law>
- 8 Chicago (passed/ in effect): <http://www.chicagotribune.com/business/ct-biz-hotel-housekeepers-panic-buttons-xxxx-20180605-story.html>
- Miami Beach (passed): <https://www.miamiherald.com/news/business/article215379285.html>
- Oakland/Long Beach (on ballot for November 2018): <https://signaltribunenewspaper.com/38645/news/proposed-initiative-calling-for-hotel-employee-protections-panic-buttons-approved-for-november-ballot/>
- 9 <https://kcbsradio.radio.com/blogs/matt-bigler/oakland-considers-measure-z-provide-panic-button-hotel-workers>
- 9 https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf pages 66-70
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