

LAW COMMITTEE REPORT – FALL CONVENTION 2013

SEXUAL HARRASSMENT CONCERNS AND POLICY

During this past year multiple lodges in our State have unfortunately been forced to address allegations of sexual harassment made against one or more of their members or officers. These are very serious claims that if not properly addressed could result in liability to any officer, employee or member found to have engaged in the prohibited conduct as well as to a lodge itself if it does not take immediate and appropriate action to investigate the claim and take appropriate disciplinary action if a violation is found to have occurred.

There are certain acts which everyone readily recognizes as sexual harassment such as a sexual assault or unwelcomed demands for sexual favors. However, there is often conduct which a member may consider to be just “harmless horseplay” or “playful teasing” that will also be viewed under the law as improper sexual harassment. The standard for whether conduct will be judged to be improper sexual harassment is not whether the person committing the conduct intends the act to be playful versus offensive; it is whether a “reasonable” person in the alleged victim’s position would view the conduct as offensive. When you think “reasonable” person, don’t think of your fellow members of the lodge, think of the typical person who would sit on a jury and make a determination of whether a violation occurred. Odds are the person on the jury will have less tolerance for the activity than a member of a private organization that sees a lot of “give and take” over cocktails.

The best defense a lodge can have to an allegation of sexual harassment is to make a prompt and thorough investigation of the allegation and to take appropriate disciplinary action as required under the Elks Statutes Annotated and your lodge’s By-Laws for criminal conduct in the case of an actual assault, or for conduct unbecoming an Elk where the conduct is merely offensive but does not arise to the level of criminal sexual misconduct. For this reason, the Law Committee recommends the attached Sexual Harassment Policy be adopted in the lodge, followed uniformly in the event of a complaint (especially if the complaint is against an officer of the lodge) and posted in a common area so that all members and guests are aware of both the prohibition of improper conduct and the protection the policy affords them against acts constituting sexual harassment.

Respectfully Submitted

Paul E. Robinson
Law Committee Chair

SEXUAL HARASSMENT POLICY

Sexual harassment is unlawful. It is the policy of this lodge that any form of sexual harassment of members, employees or applicants for employment is unacceptable conduct that will not be tolerated.

Sexual harassment is unwelcome sexual conduct. It may include one or more of the following: sexual advances or propositions; requests for sexual favors; verbal abuse of a sexual nature, including sexually explicit or degrading references to another person, or similar language; unnecessary touching; the display of sexually suggestive objects or pictures; sexually explicit or offensive jokes; or physical assault. Often the person committing the act of sexual harassment believes his conduct is “just kidding” or “all in good fun”. The playful intent of the person committing the act is not a defense to offensive conduct.

No officer, member, supervisor or other employee shall engage in unwelcome sexual conduct while in the lodge or in connection with any Elks’ functions. No officer, member, supervisor or other employee shall threaten or insinuate, either explicitly or implicitly, that another member’s, or employee’s, or an applicant’s, refusal to submit to sexual advances will adversely affect that person’s membership, employment, work status, evaluation, wages, advancement, assigned duties, shifts, or any other condition of membership or employment or career development. No officer, member, supervisor or other employee shall, by unwelcome sexual conduct, create a hostile work environment for any member, guest or employee.

Any person who feels that he or she is a victim of sexual harassment—including, but not limited to, any of the conduct listed above—by any officer, member, guest of member, supervisor, employee, or any other person in connection with membership in or employment by this lodge is expected to bring the matter to the immediate attention of the chairperson of the house committee or to a lodge officer. Also, any questions about this policy or potential sexual harassment should be brought to the attention of these persons.

The lodge will promptly investigate all allegations of harassment in as confidential a manner as possible. The lodge prohibits retaliation against any person who brings a complaint of sexual harassment or who takes part in investigating such a complaint.

Any member or employee whom the lodge believes to have been involved in sexual harassment in violation of this policy will be subject to appropriate sanctions, up to and including termination from employment in the case of an employee or suspension or loss of membership in accord with the applicable provisions of the Elks Statutes Annotated and the By-Laws of this lodge.