DEPARTMENTS

Ethics Inquiries

"Clue: Did Colonel Mustard Sexually Harass Miss Scarlet in the Township Library?"

Scenario: The city manager was concerned that a recommendation from the city's insurance carrier to settle a sexual harassment claim filed by an employee against the city would be detrimental to both his reputation and that of the city. The allegation was that the city's public works director sexually harassed a female member of the department's road crew and created a hostile work environment by condoning harassment of her by other employees. The manager was named as a party to the lawsuit for allegedly knowing that the harassment took place and therefore permitting the hostile work environment to continue.

The manager had heard rumors about some of the "pranks" pulled by employees in the department but did not intervene. While the manager was not cited as a party to the more serious allegation of sexual harassment, he feels tainted nonetheless. Although the settlement no doubt will include the standard nondisclosure clause prohibiting all parties from discussing the case, the manager wanted advice on how he could defend himself if asked about his involvement.

Response: Most local government managers have faced the legal quandary posed by the fact that, regardless of its merit, a legal claim may be settled out of court. Frankly, it can become a business decision driven by the self-insurance fund or by the insurance carrier. Settling claims before they go to trial may end up costing a locality less financially but can be costly in personal terms by making the local government and its manager look guilty in the eyes of colleagues and the public. The problem is compounded with sexual harassment and other personnel lawsuits, in which nondisclosure clauses are commonly added to reduce the likelihood that potentially negative or damaging facts and statements will be made public. The settlement amount is the only fact available to the public upon which to judge the merit of the claim.

In this circumstance, it would be inappropriate for the manager to violate the terms of the settlement in order to try to clear his name. The manager is obligated to stick with the public terms of the settlement and with the fact that the settlement was recommended by the insurance carrier to defend the decision and his reputation.

Members have an affirmative obligation under Tenet 11 to base their personnel decisions on merit and fairness. In addition, all programs, practices, and operations should prohibit discrimination against employees based on their gender. Managers should be proactive in establishing policies that prohibit sexual harassment and should train their employees to understand their obligations, as well as their rights, under the policy. Employees at all levels of the organization must know that there is zero tolerance for harassing other employees.

Most important, managers and senior members of staff should not ignore, as the member did in this scenario, the "clues" that a problem may actually exist in their operation. Rumors of "pranks," cliques, or disagreements among employees may be signs of trouble. Be proactive to ensure a healthy work environment for your employees; the payoff in morale is substantial and, at a minimum, may result in less litigation and better public relations.

**This was the title of the Pennsylvania League of Cities' Spring 1999 session on labor relations, the recipient of the "best title" award for an ethics session.*

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