

Blog Post

Avoiding Office Holiday Party Headaches

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The annual holiday party is a great time of the year to celebrate employees and business successes, but it can be fraught with peril. Wise employers will plan holiday celebrations carefully.

1. Consider the timing.

Some employees would rather limit their time with work colleagues to workplace hours. Others may stress over childcare, transportation or other commitments, but feel obligated to attend. Would workers enjoy a celebration more during daytime hours, or would they welcome an evening event? Would they enjoy dressing in festive attire or does that represent another hassle? If you want enthusiastic participation, nothing beats asking your employees how they would like to celebrate.

2. Don't require attendance.

Attendance should be optional. If you anticipate grumbling and want to encourage employees to attend an after-hours party, consider inviting spouses and/or family members. But don't pressure employees to attend. Employers should be mindful that employees have diverse religious and cultural backgrounds that may impact whether and how they choose to celebrate holidays. An employee may have a legally protected reason for not attending, such as practicing a religion that does not celebrate the occasion. Be mindful of your messaging and try to be

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inclusive and respectful of all employees, regardless of which faith they follow, if any.

If an employer does require attendance, that time is compensable under federal and state wage laws. Employers should also steer clear of requiring employees who do not attend a company holiday party to use their vacation time. While many states permit employers to implement their own vacation leave policies, an employer may be in violation of state wage and hour laws if it requires employees to use discretionary vacation benefits in lieu of attending a company-sponsored event.

3. Beware of the role of alcohol.

Hangovers are not the only headache that can come from a holiday party where alcohol has flowed freely. Too much alcohol impairs judgment and heightens the prospect of inappropriate behavior. A task force report on sex harassment issued by the EEOC identified “workplace cultures that tolerate or encourage alcohol consumption” and “workforces with many younger workers” as risk factors that increase the likelihood of harassment. As the EEOC said, “the presence of one or more risk factors suggests that there may be fertile ground for harassment to occur.”

Consider having an event – a game, a series of awards or some other event – that ensures the focus of the party won’t be alcohol. Employers also should consider limiting the number of drinks employees can consume during a company-sponsored event by issuing a specific number of drink tickets to each employee. If an employee does over-indulge, a wise employer will arrange to transport the employee home via ride-share such as Uber or Lyft, to avoid potential liability for an accident following a company party.

If you are hosting a holiday party in a state where adult recreational use of marijuana is legal, watch out. Some employees may think it’s acceptable to

bring marijuana, even in edible form, to the office party. Marijuana is still a Schedule 1 controlled substance and is illegal under federal law. Although some state laws may permit adult recreational use, employers still have the right to ensure a safe work environment and can prohibit marijuana and other illegal substances at a company-sponsored holiday party. Employers should remind employees in recreational marijuana states that marijuana consumption is prohibited both in the workplace and at the holiday party.

4. Take a fresh look at your Employee Handbook.

Many employers re-circulate their policies prohibiting discrimination and harassment mid-year and again near year-end. Doing so helps remind employees that the company is committed to maintaining an environment free of any discriminatory or harassing behavior, on or off-premises. Consider timing an annual reminder for early December, in advance of the company holiday party.

And while you are doing that, take a look at your handbook, and make sure it's up to date. If revisions are in order, you can roll them out with the new year.

Akerman LLP wishes you a happy holiday party.

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