

Employment Practices Liability

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Recommendations to Make the Holiday Party Fun, Festive, and Harassment-Free

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Executive Summary: Now that Thanksgiving is behind us, employers will be tasked with planning a variety of holiday gatherings to celebrate the season. Employers may want to make a list and check it twice to ensure that their holiday get-togethers do not run afoul of federal and state discrimination laws.

The annual holiday party potentially could expose employers to a great deal of liability. Specifically, corporate gatherings where alcohol is served present opportunities for employees and guests to become too intoxicated, meaning that employers could be liable for DUI-related incidents, inappropriate conduct leading to sexual harassment and/or assault complaints, or violent behavior by an employee or guest. Employers should also be mindful not to plan holiday events that would create an uncomfortable or offensive environment for employees, such as, for example, calling an event a "Christmas Party," or decorating with mistletoe. The following recommendations are suggested in an effort to keep the mood light and joyous, while also reducing potential liability.

Recommendations:

- Employers should consider hosting a holiday event outside of the traditional holiday party. A growing trend among many companies is to host corporate luncheons or volunteer events that benefit non-profit organizations. These alternatives can reduce the employer's potential liability with regard to alcohol-related incidents and harassment complaints.
- Likewise, instead of an employee holiday gift exchange, employers can sponsor a fundraising event for a local charity. Doing so decreases the potential for sexual harassment complaints associated with office gift exchanges. In addition, employers should avoid games, decorations, or other sexually charged traditions that could expose the company to liability.
- As another option to help avoid incidents of sexual harassment, employers may want to consider hosting a holiday party that allows employees to invite their significant other, a plus one, or even children.

- When planning holiday gatherings, employers should select a name for the event that is non-religious to avoid complaints of religious discrimination. Employers should also inform employees that participation in holiday gatherings, be it a corporate party or volunteer event, is voluntary.
- When planning holiday soirees, employers should ensure that employees and guests do not consume excessive amounts of alcohol. Thus, it is strongly recommended that employers supply guests with drink tickets (generally two tickets are standard) or have a cash bar. Likewise, employers are strongly recommended to do the following: (1) close the bar one hour prior to the end of the event, (2) designate supervisors who will not drink at the event to monitor alcohol consumption of employees and guests, (3) and have a system in place to get intoxicated employees and guest(s) home safely, i.e., Uber, Lyft, or other local transportation options.
- Prior to the corporate holiday event, employers should review their policies and procedures regarding discrimination and harassment and remind employees, through a memorandum, that all company policies will be in effect during the holiday party.

Employers Bottom Line: Although these suggestions are not overly complicated, keeping these recommendations in mind while finalizing plans for the holiday season will aid employers in ensuring that their holiday functions are enjoyable and minimize the risk of employer liability for alcohol and harassment-related incidents.

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