

Employment and Labor Relations Update

Tips for ensuring your holiday party does not become a liability or a social media sideshow

Written by John J. Balitis, Jr. and Carrie Pixler Ryerson
Presented by Sherry Janssen Downer

How to keep your holiday party from becoming a social media sideshow

Whether based in reality or merely a theatrical troupe, the workplace holiday party always has been a potential hotbed of employment-related hazards. By carefully considering the issues outlined below when planning and hosting a party, employers can prevent an event intended as a reward for employees from becoming a source of unintended bad consequences.

What beverages will be served? Adding alcohol to the party will predictably increase the likelihood of inappropriate and potentially harassing comments among co-workers as well as injuries caused or sustained by those who become over-intoxicated. If a workplace injury occurs due to alcohol served at a work holiday party, then potentially the injury is governed by Arizona's workers' compensation laws. Employers are well-advised to: (1) arrange for safe transportation home by providing cab vouchers or setting up designated drivers; (2) limit the amount of alcohol to each person through drink tickets; (3) provide food; (4) hire a third-party vendor to serve the alcohol or hold the party at a venue where the venue is responsible for serving the alcohol; and (5) cut off the alcohol well in advance of the end of the party.

Will gifts be exchanged at the party? White elephant gift exchanges, while providing comedic relief at times, can be inappropriate if not everyone has a sense of humor. Employers should be in-tune with the culture of the office and bear in mind that gag-gift exchanges can go awry if appropriate parameters for the gifts are not clearly explained ahead of time.

Who actually will host the party? Designating event hosts at the party helps put some structure and responsibility around the celebration. The hosts can remind employees of the end of the festivities so that the work-sponsored portion of the party does in fact end at an appropriate time. In addition, to the extent there is inappropriate conduct, or excessive drinking, the hosts can attend to the problem as soon as it crops up.

What laws apply to holiday parties? Every law that applies to the workplace also applies to workplace holiday parties, even if the event is held away from the office. For example, federal anti-discrimination laws apply to the employment relationship at all times, regardless of whether the employees are interacting after hours or offsite.

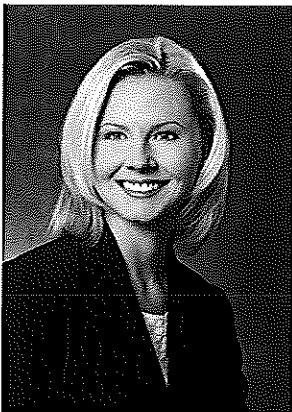
An employer should remind employees, particularly supervisors, to adhere to the employer's handbook when attending the party. To that end, if an employer learns that an employee runs afoul of a handbook provision through misconduct at a party, the employer should be prepared to discipline the employee, even though the misconduct did not occur at work.

What does the holiday party celebrate? Employers should be mindful of federal and state anti-discrimination laws that prohibit disparate treatment or harassment on the basis of religion. If a party is centered on particular religious themes (e.g., Christmas), those employees who do not practice the featured religion might feel unwelcome or uncomfortable. Employers should invite employees of all faiths to provide input and participate in the planning of the event. Calling it a holiday party or using another neutral way to describe the celebration is advised.

Will employees be required to attend? An employer should not require employees to attend the party or even hand out bonuses at the party, which essentially means that attendance is required. Additionally, requiring hourly employees to attend the party while not providing compensation may run afoul of the Fair Labor Standards Act.

Can an employer prevent last night's party from becoming tomorrow's social media post? An employer's rules for the holiday party should echo the employee handbook and social media policy of the office. If the social media policy includes a prohibition on the posting of proprietary or protected employer information, then employees should be reminded of this policy, particularly given the alcohol, relaxed atmosphere and mixed company that may be at the party. In the end, if the employer doesn't want employees posting embarrassing moments from the party on social media, the employer needs to set ground rules before the party starts perhaps even prohibiting anyone from turning on their phone while in the party room.

A well-thought out and hosted party not only provides a great venue for getting to know co-workers and celebrating the year, but also helps protect employers from potential sources of liability.



Sherry Janssen Downer

Fennemore Craig, P.C.

(520) 879-6852

sdowner@fclaw.com

Ms. Downer practices in the areas of labor and employment, commercial and business litigation, and professional liability. Ms. Downer represents companies in employment litigation, commercial disputes, contract claims and the defense of tort claims. She has successfully defended and obtained dismissals for professionals, including attorneys and doctors, against professional malpractice claims.

Ms. Downer's commercial litigation practice includes litigating a variety of business disputes, and contract and tort claims on behalf of corporate clients.

Ms. Downer is legal counsel for the Southern Arizona Homebuilders Association (SAHBA), and currently serves as the legal chair for the Arizona Builder's Alliance, Southern Division, and the Cornerstone Building Foundation.