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4 Tips For Making Employees Behave At Holiday Parties

By **Braden Campbell**

Law360, New York (December 11, 2017, 5:40 PM EST) -- Holiday parties are supposed to be a chance to cut loose at the end of the year and celebrate the successes that came along the way, but this season employers are worried these traditionally boozy bashes could land them on the growing list of companies accused of letting workers behave badly, attorneys say.

Attorneys whose practice involves counseling employers on avoiding legal issues have lately been busy dispensing advice on how clients can give their workers a good time while keeping them well-behaved.

"The employers I'm talking with are really trying to discourage situations that may lead to their employees behaving badly or may lead to errors of judgment," Ogletree Deakins Nash Smoak & Stewart PC Chicago office shareholder Thomas Deer said. "We're seeing a lot of very rapid public recognition and public disclosure of improper behavior and that leads to accountability and I think, frankly, makes a lot of people nervous."

Here, experts share four tips for helping employers keep the festivities merry while limiting their legal risk.

Cut Back on the Booze

Many things can go wrong at holiday parties. A senior worker might get flirty with a younger employee who doesn't reciprocate, or a worker might speak too candidly to colleagues about a hush-hush project. And while the jovial atmosphere may play a role in lowering workers' inhibitions, it's a clear second fiddle, attorneys say.

"When it comes to holiday parties, it all comes back to the same topic, which is gonna be the booze," Bryant Miller Olive's Michael Elkins said. "If you take the booze either out of the mix or you limit it, you end up with a definitively less risky environment."

Cutting out the alcohol entirely will make for a boring party, but there are several ways employers can let their employees drink without things getting too loose. Elkins said he's advising clients this year to give workers drink tickets to limit their consumption. This may not totally stop excessive drinking — workers may bum unused tickets off colleagues — but it will minimize it. Employers can also limit their offerings to beer and wine, which are generally less intoxicating than cocktails. And employees will be less apt to order a sixth martini if they have to shell out for it, so employers can discourage binge drinking by offering a cash bar.

Employers can also keep workers in line by bringing spousal pressure to bear.

"A number of employers are starting to invite guests to holiday parties, whether that be a spouse or significant other, and that tends to encourage better behavior," Deer said.

Set Some Ground Rules

Employers can discourage bad behavior and give themselves a defense to potential claims by reminding workers to behave before the party, though they'll want to be careful how they do so.

Businesses that opt to send letters may want to make the ground rules more general than specific, Elkins said.

"I'm not a huge fan of 'hey guys, let's all have a good time but, by the way, mind your Ps and Qs,'" he said. "It's very counterintuitive to the holiday party and it sets you up for a bad scene. Sometimes, there's the old adage, 'If you tell the kids don't put their hand in the cookie jar, then they're gonna put their hand in the cookie jar.'"

Instead, the message should be more along the lines of "we want you to have a good time, but if you have too good a time, we want you to be safe," Elkins said.

That said, employers may want to be more explicit with certain workers. If an employer knows one worker may be more likely than others to cause a scene or has been complained about before, the employer may want to have a conversation.

"If you've got somebody in there who might be a problem, you need to speak to them, and you've got to set very clear guidance: There is no sex here, and the person should not drink to excess, falling down drunk," said Joseph Greenwald & Laake PA's Brian Markovitz, who mostly represents workers.

Keep an Eye Out

Even with these precautions in place, a few workers may still have a few too many. With this in mind, employers should have a few leaders ready to step in should a problem arise.

"There should be some people higher up, who have authority, who can say 'look, we're not gonna drink,'" Elkins said. "However big the company is, whatever number you need, socialize, have a good time, and if something gets out of hand, go ahead and let everybody know — the people who need to know — quietly."

These supervisors should also document any incidents, and make sure any workers who feel wronged know they can tell their story without fear of reprisal, attorneys say.

Get Workers Home Safely

Harassment is a major concern at holiday parties, but employers should also recognize another danger of excessive drinking: drunk driving.

The rise of ride-sharing companies like Uber and Lyft, which offer business accounts, has made it easier — and cheaper — than ever to ensure workers get home safely.

Employers that opt to pay for workers' rides home should remind employees that they have a free ride available, and may even want to place reminders around the party venue to drive home the

message. Not only can these nudges keep drunk drivers off the road, they can also help to generally discourage excessive drinking, attorneys say.

"Whether somebody takes advantage of these things isn't really the point, but the reminders are everywhere," Elkins said. "They're subtle ... you have Uber and Lyft signs everywhere, you're very subtly saying, 'Don't get hammered.'"

--Editing by Pamela Wilkinson and Jack Karp.

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