

Office Holiday Parties Are Back, As #MeToo Concerns Surge

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In the more than two years since Alyssa Milano's tweet sparked the #MeToo movement, there have been significant changes in both the culture and the legal landscape. In the immediate aftermath of the ensuing movement, many employers opted to scrap their annual holiday parties. This year, however, all indicators suggest that office holiday parties are back in full swing, despite the concerns that were thrust into the spotlight by the #MeToo movement. However, due to the movement, sexual harassment, assault and personal injury complaints tied to annual holiday parties are expected to increase. Here are three key tips for employers to implement as they ramp up plans for their annual celebrations.

Laws and Policies Still Apply

As a result of #MeToo, employers throughout the United States are more cognizant of the importance of policies and procedures that address conduct in the workplace. Some states, such as New York, mandate that employers maintain robust anti-sexual harassment policies and train employees annually on the state's legal requirements. In providing employee training, one area that employees continually struggle with is the concept that even behavior *outside* of the workplace can impact the work environment and result in legal and policy violations.

It is not a surprise that holiday parties tend to encourage employees to behave differently than they normally would during a typical workday. There always seems to be that "one" employee, and sometimes even management, that forgets that the laws and policies that govern the workplace apply equally to the holiday party environment.

Open communication, a written policy and training are the keys to ensuring a successful and welcoming event for everyone. Employers should explain to employees in advance that all policies and codes of conduct apply during the party and after the party. Similarly, the weeks and days leading up to the event present employers with an opportunity to reeducate their workforce on their policies and procedures, including the code of conduct and anti-sexual harassment policy. Interactive training courses aimed at curbing inappropriate conduct, including sexual harassment, are always a best practice. Managers and supervisors should likewise be counseled on their expectations, including what to do if they learn of or witness misconduct at or after the event.

Plan and Implement Control Measures for the Event

A keystone to a successfully holiday party is an inclusive and safe environment for everyone. The control of alcohol consumption, entertainment and transportation are important components to this goal.

Alcohol is a staple at most office holiday parties. There are steps that every employer should take to minimize the risks associated with the provision of alcohol. Hiring a professional bartender to handle service of drinks is a must. Employees should not be allowed to serve alcohol to themselves or fellow employees. Bartenders should be instructed to cut off service to anyone who appears to be intoxicated or acting inappropriately. Limiting the types of alcohol (i.e., no liquor), number of drinks per person and coordinating the serving times of drinks with food will also help ensure a fun-filled evening for all.

The music playlist and lighting is often overlooked. Music that contains expletives or other inappropriate lyrics based on race, gender, sexual orientation, transgender status or any other protected category must be avoided. A point person should be charged with reviewing playlists in advance and with working with the venue to ensure a professional environment.

The transportation and safety of all guests is of paramount concern. All guests should be reminded not to drive if they intend to drink alcohol at the party. Transportation options should also be provided for all guests. With the advent of service providers such as Uber and Lyft, as well as limousine services, transportation options should be prearranged and offered at the employers' expense. As always, anyone that appears intoxicated must be provided with a safe ride home and not permitted to drive.

If An Issue Arises, Act Immediately

If an issue arises at a holiday party, it cannot be ignored. If you do not act quickly, things are bound to get worse for everyone involved. You also do not need to wait for someone to formally complain. Being proactive is key.

The biggest thing to remember is that you must address the problem as soon as you are aware of it. If someone is out of control or acting inappropriately, you cannot wait until the next day to address it. Instead, pull that person aside discreetly and inform him/her that he/she is crossing the line of what is and is not permissible. If the behavior is egregious enough or if inappropriate behavior continues after a warning, the person should be asked to leave the party immediately. If the person is intoxicated, arrange for a ride.

One way to handle situations in which employees may act inappropriately is to designate a member of management to be on the lookout for potential problems and to handle them before they get out of control. Much like a designated driver, this person can certainly have fun at the party, but should not be partaking in alcohol. Of course, this person is not the "fun police" and should not act like a fifth-grade hall monitor, but instead is there as a safeguard.

The day of the party is not the only time you have to worry. Many times, issues at a holiday party may be unknown until everyone returns to work. That is when the stories start to make their way around the office. Oftentimes, these stories can form the beginnings of a potential lawsuit against the employer. Too often, those stories are ignored which can open the door for liability. Once again, it is important not to simply treat these as idle gossip, but to be proactive. If you hear reports of inappropriate behavior that occurred at the holiday party, you must investigate those reports the same as you would a report of inappropriate behavior that occurred any other day at the office.

Holiday parties can be an excellent opportunity for co-workers to share a good time without the daily stress that work can bring. They are a tradition that can be important to creating a sense of camaraderie and teamwork, which can help productivity. It is important, however, to ensure certain steps are taken so everyone is safe and acts appropriately, and so the new year doesn't bring any unexpected surprises (lawsuits)!

For questions about this or any other topic involving employees, please contact George C. Morrison ([morrison@whiteandwilliams.com](mailto:morrisong@whiteandwilliams.com); 610.782.4911), Jeffrey Stewart (stewartj@whiteandwilliams.com; 610.782.4904) or another member of the Labor and Employment Group.

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