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Tips for Avoiding Holiday Party Liability

*By CCHRA Legislative Chairperson Jennifer Ermilio, Esq.
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“Mr. Johnson, would you please get down from the chandelier and take the lampshade off your head?” HR’s worst nightmare is a holiday party gone wrong. Thankfully, tis’ the season for holiday party reminders. Below are some helpful tips to make sure everyone has an enjoyable and safe time at this year’s celebration.

- **Restrict Alcohol** – Alcohol is probably the single most important factor in increasing holiday party liability. Overindulgence can lead to sexual harassment claims, personal injuries and other liabilities. If alcohol will be served, some things employers can do to minimize the risks include the following:
 - Have an alcohol policy in place and send a memo in to employees in advance of the party reminding them about the policy and responsible conduct.
 - Consider hosting the event off premises at an established venue or if it is held in the office, hire a professional bartender.
 - Provide enough food and non-alcoholic beverage options.
 - Avoid an open bar and instead opt for a limited number of drink tickets or a cash bar.
 - Consider limiting alcohol choices to wine and beer.
 - Take steps to make sure employees get home safely such as by implementing a designated driver program or paying for cab rides home.
 - Remind bartenders and servers not to serve minors and employees who appear intoxicated or rowdy.
 - Limit the number of hours the bar is available, such as closing the bar at least an hour or more before the event ends.
- **Respect Diversity** – In a more relaxed setting, such as a holiday party, employees can often do or say things that may cause offense to members of protected classes, such as those concerning religion. Some things that can be done to minimize this risk are:

- Don't refer to the event as a Christmas Party. Consider calling it a "Holiday party," "Seasonal Gathering," or "End of the Year Get Together" instead.
 - Avoid religious decorations, even if multiple religions are represented, because some individuals may not adhere to any of those represented or to any religion at all.
 - Make sure the event is accessible to and appropriate for individuals with disabilities.
 - Consider diversity when determining any year end gifts to be given at the event. For example, recovering alcoholics, diabetics or those adhering to religious dietary restrictions may not appreciate gifts of liquor or food. Gag gifts may also be offensive. Cash equivalents are the least controversial and often the most appreciated.
 - Accommodate dietary restrictions. Employers may wish to email employees asking about dietary restrictions and consider including kosher and vegetarian food selections to help alleviate charges of religious discrimination.
 - Make attendance optional so that employees who do not feel comfortable attending for religious reasons don't feel pressured to attend.
- **Avoid Wage and Hour Liability** - If attendance at the holiday party is mandatory or perceived to be, hourly employees may claim they are owed wages. Some steps that employers can take to minimize this risk include:
 - Clearly convey to employees in advance that attendance at the holiday party is voluntary and that time spent at the event will not be considered hours worked.
 - Hold the party off-site and during non-work hours or on a non-work day.
 - Avoid work related activities at the event such as award presentations or training.
 - Don't subtly encourage attendance by implying that attendance will help the employee advance or that failure to attend will indicate that the employee is not a "team player."
 - Be cautious about inviting clients or others with whom the company has a business relationship as this could signal to employees that it is a working event for which they should be compensated.
 - **Avoid Workers' Compensation Claims** - Employers may face workers' compensation claims from employees injured at work sponsored social events. This risk increases with the consumption of alcohol. To minimize this risk, employers should:
 - Limit alcohol as described above.
 - Check the surroundings for safety hazards.
 - Review their workers' compensation policy for adequate coverage and exclusions.

- **Prevent Sexual Harassment** – Sexual harassment is a common a legal problem at holiday parties. It often goes hand in hand with alcohol consumption, but may simply arise from employees blowing off steam in a more relaxed atmosphere. Conduct that might seem harmless can later be viewed quite differently, especially if the employment relationship sours. Some things employers can do to minimize the risks that sexual harassment will occur at a holiday party are to:
 - Invite spouses and significant others.
 - Provide clean entertainment.
 - Choose a non-suggestive venue that is appropriate for both sexes.
 - Remind managers and employees of the employer’s anti-harassment policy and appropriate conduct in advance of the event.
 - Limit alcohol as stated above.

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