

Holiday Parties: Safe Celebrating

Holiday Headaches

The holiday season brings joy, good cheer, and, often, headaches to employers when trying to navigate the various laws and company policies. This month's newsletter is dedicated to keeping your company compliant while enjoying the festivities of the season.

- Before the party, communicate to employees that excessive drinking will not be tolerated. State that intoxication and inappropriate behavior at the party will be grounds for disciplinary action.
- Remind managers that even at the office party, they need to implement the company's alcohol and substance abuse policy.
- Make transportation arrangements in advance of the party. Encourage all employees to make use of alternative transportation if they consume alcohol.
- Arrange for volunteer designated drivers to monitor the party, to determine if individuals are intoxicated, and to drive them home.
- Stop serving alcohol well before the party officially ends.
- Convey to employees that the holiday party is purely a social event and that attendance is voluntary.
- Involve employees in holiday party planning.
- If serving alcohol, hold the party at an off-site location and use professional bartenders to serve and monitor alcohol consumption.
- Do not provide open bars. Provide cash bars instead and implement a drink limit per individual (i.e., a ticket system).
- Offer a variety of nonalcoholic beverages and serve protein-rich foods to slow digestion and alcohol absorption.
- Provide a variety of entertainment (i.e., dancing, games) so that drinking is not the focus of the party.
- If held at a hotel, arrange for a block of rooms that employees can reserve at a discount.

Sources: www.dol.gov and www.shrm.org/hrtools

Holidays and Work: Frequently Asked Questions

Q: Do I have to pay my nonexempt/hourly employees holiday pay while they are off for the holidays?

A: The Fair Labor Standards Act (FLSA) does not require payment for time not worked, such as vacations or holidays. However, if your company does pay holiday pay, you are bound to company policy. You can create a policy that only pays it to certain groups of employees (for example, only full-time workers), but it must apply to all employees under that group and must be used consistently.

Q: Do I have to pay exempt/salary employees while they are off for the holidays?

A: If your company is closed on that day(s), yes. Under the FLSA, you cannot dock employees for being absent based on an operational requirement such as the company closing shop for the day. They state:

"An employee will not be considered to be on a salary basis if deductions from his predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business." www.dol.gov, 29 CFR 541.118(a)(1)

Q: What if we are open and an hourly employee works during a holiday? Do I have to pay him or her at a higher rate?

A: Under the FLSA, companies are not required to pay a premium for hours worked on a holiday. If your company policy allows for it, though, you have to stick to that policy and use it consistently for all employees. Be aware also that the higher rate is a factor when determining the employee's regular rate of pay for that week and may entitle him or her to a higher overtime rate. Please contact your Payroll Account Manager at Nextep at 888-811-5150 for help.

Q: If I pay my employees holiday time, does it count towards overtime?

A: It only counts if the employee actually worked those hours. PTO, holiday pay, or jury duty time is not subject to overtime unless your company policy states otherwise. Of course, any hours actually worked on the holiday are subject to overtime.

Q: Do I have to give my employees time off for the holidays?

A: This is a sensitive subject since many employees use the holidays for religious observation. Under Title VII of the Civil Rights Act:

"Employers must reasonably accommodate employees' sincerely held religious practices unless doing so would impose an undue hardship on the employer. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice his religion." www.eeoc.gov

Also under Title VII, employers cannot discriminate against employees based on their religious beliefs. If you grant the holiday off for one set of religious employees, be sure to grant employees of other religions time off for their holidays, as well.

Q: Our company is having a holiday party. Can we serve alcohol?

A: Although there are no federal laws against serving alcohol at company parties, some states do have regulations you will want to check. Companies can be found liable for employees' actions during and after the celebration. Employee injuries may also be eligible for workers' compensation. If possible, it is best to not serve alcohol at all. See the sidebar for tips on having a safe celebration for your company.

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