



Five Ways to Limit Employer Liability At Holiday Parties

Tis' the season for employers to host holiday parties to thank their employees for their hard work throughout the year and to toast the holidays and new year. An estimated 59% of employers who host a holiday party for their employees serve alcohol at the event.¹ Although most employees consume alcohol responsibly, there are those few who drink too much or who react to alcohol in such a way that could cause other employees to become uncomfortable or even create a hostile environment. What can employers do to limit their liability at holiday parties?

Below is a list of the top five tips to avoid employer liability at holiday parties. Many of these tips recommend employer action before the party. Therefore, those employers with holiday parties scheduled for the upcoming weeks should take appropriate action immediately.

1. Voluntary Attendance: Remind employees that attendance at the holiday party is voluntary. If attendance is mandatory, a court is more likely to find that the holiday party is "within the scope of employment," which is a factor considered in determining employer liability.

2. Implement and Emphasize Employer's Policies: Have in place comprehensive, written policies prohibiting harassment and discrimination, a code of conduct, dress code and social media policy. Remind employees before the event that these policies apply both inside the workplace and also

at off-site employer sponsored events. Also remind employees that they must act responsibly at the holiday party and that any inappropriate behavior, such as drunkenness, will not be tolerated. Another important tip is to emphasize to members of management that they should lead by example. Letting employees know your expectations in advance of the event is key.

3. Limiting/Monitoring Alcohol Consumption: If alcohol will be served at the event, ensure that the event is not focused on alcohol and set the tone that alcohol must be consumed in moderation. The employer may want to consider limiting the number or type of drinks employees are permitted to consume. This can be done by, among other things: (a) closing the bar at certain times during the event; (b) issuing drink tickets; (c) offering only beer and wine (as opposed to stronger alcoholic beverages); (d) hiring a bartender to monitor consumption; or (e) having a cash bar (the thought being that employees will drink less if they have to pay for their drinks).

4. Transportation: Encourage employees not to drive after the event if they consume alcohol. Remind employees that, if they appear intoxicated, they will not be allowed to drive home. Consider having designated drivers or paying for transportation for all employees.

5. Insurance: Consider purchasing "holiday party" insurance. Many employers' commercial general insurance policies cover liquor liability. However,

employers are encouraged to review their insurance policies and contact their insurance broker to determine if social events, or parties that are held off-site or "off-the-clock," are covered. Employers may also want to consider employment practices liability insurance to protect their business from costs associated with claims by employees, such as those for discrimination and harassment. This is especially important for holiday parties.

While these tips may not prevent employer liability, they could provide the employer with solid evidence to support its defense to claims brought by employees and others.

If you have any questions about this Alert, or if you would like assistance in updating your policies or notifying employees of their expected conduct at your holiday party, please contact the author listed below or the [Aronberg Goldgehn attorney](#) with whom you work.

Amy M. Gibson
agibson@agdglaw.com
312.755.3154

¹ <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/SHRM-2015-End-of-Year-Holiday-Activities-Final.pdf>