

# LEGAL NEWS FOR YOUR BUSINESS

December 2023

## *Employment Alert*

# ‘Tis the Season: Holiday Considerations for Employers

Ready or not, the holiday season is here. While everyone is busy with decorating, last minute shopping, and holiday baking, the season can also bring special employment considerations. December is often a time spent wrapping up projects, celebrating a productive year, and appreciating employees, but employers should also take special care to navigate a variety of employment issues and considerations to ensure a successful holiday season and start to 2024.

## ***Holiday Parties***

While many employers use holiday parties to show employee appreciation and bring an air of festivity into the office, these occasions can also bring a host of issues. First, if holiday events are mandatory, non-exempt employees must be paid in accordance with their usual hourly and overtime rates. This can create a tricky situation, especially if holiday events are held during normal work hours. To avoid time and attendance issues, consider hosting your holiday event outside of normal work hours and make events optional rather than mandatory. While it's great to encourage employees to participate in social events, they also should not feel pressured or feel reprisal for not attending.

Additionally, many employers choose to include alcohol in their holiday events. If alcohol will be served, consider some precautions. Consider hosting your event off-site at a venue with appropriate liquor licenses and experienced servers who can identify and mitigate issues quickly. You might also limit the amount or type of alcohol you serve by only offering beer and wine rather than liquor, or by issuing drink tickets or not having an open bar. Further, if employees are drinking at an off-site event, having alternative transportation is a good way to discourage employees from driving.

Finally, holiday parties that become out of control can lead to inappropriate behavior that employers will want to avoid. Sexual harassment and misconduct are not uncommon at holiday parties, but employers can take steps to decrease these occurrences and keep holiday events a positive experience for everyone. Employers can establish and follow alcohol procedures, like the ones listed above, and avoid mistletoe or activities that might encourage misconduct. Finally, employers can also schedule discrimination and harassment training around the holidays to remind employees of appropriate workplace behavior and regulations.

Happy Holidays!

### ***Holiday Decorations and Focus of Celebrations***

The holiday season celebrates a number of holidays and cultures, so employers' decorations and events should reflect that. Be careful to keep any decorations and events inclusive of all your employees' cultures. Even if you choose not to put up decorations in the workplace, you should also be careful to enforce any rules you have about decorations equally. If you allow an employee to decorate their office or desk for Christmas, you must also allow other employees to decorate for other religious and cultural holidays. Similarly, holiday events should be kept as a general celebration of the holiday season, rather than a celebration of one holiday.

### ***Employee Gifts and Bonuses***

Finally, it's common for employers to give annual bonuses or end-of-year gifts to employees. Gifts can show employee appreciation and boost employee morale. But if they don't resonate with employees, they can have the opposite effect, leaving employees feeling unseen or under-appreciated. Employers can opt for gifts that are cheerful and fun and appeal to a broad range of people. The best gifts will vary by workforce, but holiday plants like poinsettias and baskets of tasty treats are easy options. Of course, if someone has recently had a big life event, like a move, the birth of a child or grandchild, etc., a holiday gift presents an opportunity for thoughtful recognition of those big changes. Consider adding some fun to the mix with a raffle - for a big prize for example, enter the names of everyone who brings in canned goods or toys for holiday drives. Gift exchanges can also add some fun to the office without breaking the bank. If you opt to have a gift exchange, remember to keep spending limits modest and have clear guidelines for appropriate gifts.

Additionally, end-of-year bonuses can often be common practices for employers. But in tough economic times or low performance, some employers may choose to forgo bonuses, even when employees have come to expect or rely upon them. If you have given end-of-year bonuses in the past and choose not to this year, consider communicating any financial reasoning to employees to mitigate impacts on morale. Also, if you don't have a bonus policy in place, consider developing one that clearly outlines how, why, and when employee bonuses may be given. This can be very tricky, however (legal rules about bonuses can be complex and surprising), so it's a very good idea to get help with this.

Although the holiday season can bring the need for extra considerations, employers who plan ahead and carefully craft holiday practices can have a successful and joyful season and still have plenty of time to perfect their gingerbread house technique.

*Gardner Skelton wishes our clients the best this holiday season. If you have questions or concerns about your holiday practices or want to get started on revamping your practices for the New Year, please do not hesitate to reach out to any member of Gardner Skelton's employment team.*



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