

Better Call Sarah: Inappropriate Behavior at Office Parties - What You Need to Know

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By Sarah Goodman



Mistletoe and Missteps: Ensuring a Safe and Fun Holiday Party

Dear Sarah,

I'm looking to keep our company's annual holiday party lighthearted and fun and make sure it doesn't turn into a legal disaster (nobody wants a sexual harassment lawsuit under the mistletoe, right?). So, what's the best way to ensure our holiday festivities stay friendly and fun, without crossing any lines?

And, just in case things do get out of hand, how should we handle any complaints or potential allegations of misconduct that may arise after the party?

*Cheers to no awkward lawsuits,
The Mistletoe Monitor*

Inappropriate Behavior at Office Parties: What You Need to Know

Dear Mistletoe Monitor,

As much as the holiday party is a time for celebration, it's also a time when employer liability can become a concern. When alcohol is involved, workplace boundaries can become blurred, increasing the risk of inappropriate behavior—whether under the mistletoe or at the office party in general—which could lead to serious legal consequences.

So, what should you do if something goes awry? Here are a few steps to mitigate liability and protect your business if an issue arises.

1. Respond Promptly to the Complainant. If an employee comes forward with a complaint, act quickly. Start by talking to the employee and assuring them that the complaint will be investigated thoroughly. Document all conversations and begin your investigation right away. This demonstrates that you take such matters seriously and are committed to creating a safe workplace.

2. Consider Having an Attorney Direct the Investigation. One option is to bring in legal counsel—either in-house or external—to guide the investigation. Having an attorney involved ensures that the process is handled appropriately and can help protect communications under attorney-client privilege. This is particularly important when dealing with sensitive

situations that could lead to legal exposure. If you're unsure about the process or legal ramifications, consulting with an attorney early on is always a good idea.

3. Consider Protective Measures Pending the Investigation. Depending on the nature of the complaint and the circumstances, you may need to take interim actions. This could include modifying work assignments, adjusting schedules, or even placing the alleged harasser on leave. The goal is to maintain a safe environment while the investigation is ongoing. For example, if the situation involves two employees from different departments, you could temporarily change their work assignments to prevent further interaction until the investigation is completed.

4. Tailor the Response to the Situation. Remember that each case is unique, and your response should be proportional to the situation at hand. For serious allegations, you may need to take more immediate action, including suspensions or temporary leave for the accused party. Always consult with legal counsel to determine the most appropriate course of action based on the facts.

5. Keep the Event Safe and Enjoyable. Of course, the goal is to prevent these situations from occurring in the first place. You can minimize the risk of harassment claims by being proactive, setting clear expectations, and monitoring the party. Have policies in place to promote respectful behavior and remind employees that although they are at a social event, they still represent the company. If someone gets out of hand, don't hesitate to step in to prevent further issues.

Your office holiday party should be a time for celebration, but it's important to be prepared in case something goes wrong. By following these best practices, setting clear expectations, and consulting legal counsel, when necessary, you can reduce the chances of a party mishap turning into a legal nightmare.

Happy holidays (with boundaries!).