



Seasonal Risk

Don't Get Sued Over Your Firm's Holiday Party

HOLIDAY PARTIES have made a comeback despite, or maybe because of, more people working remotely. Many managers want to bring their teams together under one roof as it's become apparent that connecting face-to-face is vital to a vibrant and cohesive work atmosphere.

But if you are planning on throwing a company holiday party, there are a number of considerations for you to keep everyone safe and avoid issues that can result in legal liability.

Alcohol can bring trouble

The biggest risks you face arise if you throw a party that serves alcohol. A 2018 survey found that one in three office workers had done something at an office holiday party that they regret, and two in five said they'd seen events at parties evolve into office drama, altercations or scandals.

The best advice is not to serve alcohol at your event. That will greatly reduce the chances of problems like the following:

Bad behavior and conflict – If hostilities erupt, it puts you the employer in danger of being sued by one of the parties and others may be drawn into the fracas.

Hook-ups between staff – These are a common occurrence and can lead to a long-term romance or awkward times at work. Worse, alcohol-fueled aggressive come-ons can spill over into outright sexual harassment – another legal peril.

Holiday advice: If it's an office event, the rules of conduct in the office extend to the party and you should not tolerate those who exceed the boundaries of proper behavior. This should be made clear in party announcements and reinforced through memos.

Drunk driving – If someone has been drinking at your holiday party and injures themselves or others on the drive home, you may be held liable, particularly if you had an open bar and didn't set limits on how many drinks an employee can be served.

IF SERVING BOOZE...

- Limit consumption to two drinks. Drink tickets are a good way to go.
- Serve drinks with lower alcohol content (beer/wine – not shots).
- Offer a signature company "mocktail," and provide water and non-alcoholic beverages.
- Stop serving at least an hour before the shindig ends.
- Provide plenty of food to snack on, particularly high-carbohydrate and high-protein foods.
- Hold the event at a hotel and offer free rooms to those who want to stay the night.
- Offer free Uber or Lyft rides to your staff so they can get home safely.
- Ask your managers to lead by example.
- Invite spouses and kids, which should force people to mind their p's and q's.

See 'Keep' on page 2

ACRISURE

Wishes You Happy Holidays

CONTACT US

Pleasant Hill Office
363 Civic Drive, 100
Pleasant Hill, CA 94523
Phone: 925-686-2860

Morgan Hill Office
15005 Concord Circle
Morgan Hill CA 95037
Phone: 408-842-2131

Sacramento Office
111 Woodmere Rd., Suite 290
Folsom, CA 95630
Phone: 916-970-2745

San Diego Office
5330 Carroll Canyon Rd, Suite 110
San Diego, CA 92121
Phone: 858-345-5787

License No. 0K07568

New Rule Increases Risks to Thousands of Firms

THE NATIONAL Labor Relations Board has issued a final rule that expands the definition of what's considered a joint-employer relationship and increases employers' potential liability.

Under the rule, two or more entities may be considered joint employers if they share one or more employees and they both can determine the workers' essential terms and conditions of employment. If a company is deemed a joint employer with another entity, each can be held liable for labor law violations that the other commits.

The new NLRB rule applies to almost all industries, but will have the most effect on companies that use staffing or temp agencies, firms that are third party employers, and franchisors.

The rule repeals and replaces a rule implemented during the Trump administration that had made it more difficult to qualify as a joint employer under the National Labor Relations Act.

Essential terms and conditions of employment

Specifically, the new rule states that an entity may qualify as a joint employer if it retains the authority to control at least one of the following essential terms and conditions of employment (whether or not such control is exercised, and whether it is direct or indirect control):

- Wages, benefits and other compensation;
- Hours of work and scheduling;
- Assignment of duties to be performed;
- Supervision of the performed duties;
- Work rules and directions governing the manner, means and methods of the performance of duties and the grounds for discipline;
- Tenure of the employment, including hiring and discharge; and
- Working conditions related to the safety and health of employees.

For companies that use temp agencies or staffing companies, the new rule poses a significant risk. If the NLRB determines a joint employment relationship, the company that pays a temporary agency for workers could be subject to liability or unfair labor practices committed by the agency.

Similarly, franchisors could be held liable for the labor actions of their franchisees.

The takeaway

The new rule takes effect December 26 on a prospective basis, meaning it applies to any cases filed on or after that date.

If your company uses temp or staffing companies or third party employers, you may want to review the contracts and memorandums of understanding with the other entity to clearly define the employment relationships, including roles, responsibilities and the extent of control exerted over the seven essential terms and conditions of employment.

The NLRB's new rule is likely to face litigation, as prior rules have, and challenges from Congress. ❖



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Keep Hot Food Warm and Covered

Food safety

The other big issue is food safety. It's not uncommon for food from a catering service to sicken partygoers.

At an office party, foodborne illness can occur when people eat certain items that were either undercooked or left out at room

temperature for too long.

Eggs, raw egg products (e.g., eggnog), meat, seafood, and even fruits and vegetables (if not properly washed) are some of the most common offenders. Add to that the possibility of poor hygienic practices by the caterer's staff. ❖

HOLIDAY FOOD SAFETY ADVICE

- Observe the two-hour rule: don't let foods sit at room temperature for more than two hours. For refrigerated items like deviled eggs, consider putting a few out at a time and replenishing when needed.
- Place hot foods in crockpots, chaffing dishes, or on warming plates to maintain a safe temperature.
- Cover food containers in the buffet line when not in use.
- Use large spoons, forks, wax paper, tongs and other serving tools to avoid touching food by hand.
- If you suspect anything has been out too long, toss it.

Social Security: Maximizing the Benefits

MOST understand that waiting to claim Social Security benefits can result in higher monthly payments. However, many don't know that there are other ways to maximize their benefits, some of which depend on their marital status.

Understanding the strategies for maximizing your Social Security retirement income benefits should be prefaced with a review of the three basic forms of retirement benefits:

1. **The worker benefit:** This is the benefit you receive based on your own personal earnings history and for which you become eligible after 40 quarters of work.
2. **The spousal benefit:** This is the benefit paid to your spouse. For non-working spouses, this is 50% of the working spouse's benefit. For working spouses, it is the greater of the benefit earned from his or her earnings or 50% of the worker's benefit.
3. **The survivor benefit:** This is the benefit paid to the surviving spouse, which is paid at a rate equal to the greater of his or her own current benefit or, depending on the widow or widower's age, up to 100 % of the deceased spouse's current benefit.¹

The first and most obvious strategy for maximizing your Social Security benefit is to simply wait to reach age 70 before beginning to take benefits. By waiting until age 70 to receive benefits, your monthly payments may increase by 24%, not including any cost of living increases that may be added to this amount.²

Benefit Maximization Strategies for Widows, Widowers

Remember, there is no spousal benefit for a widow/widower, but they do qualify for a survivor benefit that is equal to 100% of the deceased spouse's benefit (versus the 50% spousal benefit if the working spouse is still alive). This survivor benefit is available at age 60 or even earlier, depending on the widow/widower's disability status and whether or not they are caring for a child.¹

If you are widowed and also have worked for 40 quarters, you will have a worker benefit and a survivor benefit. This presents you with several choices. One choice is to file for the benefit that provides you with the greatest monthly benefit amount.

Another choice is start your worker benefit at age 62 and then switch to the survivor benefit once you reach full retirement age. This option is advantageous in instances where the widowed spouse did not accumulate the same level of benefits as the deceased spouse.



Choosing this option allows the surviving spouse to take the higher survivor benefit amount. Because there are no delayed retirement credits earned on survivor benefits, there is no advantage to waiting past full retirement age to apply for survivor benefits.³

A final choice is to consider starting the survivor benefit at age 60 and then switching to your own worker benefit at age 70. This strategy allows you to begin receiving income based on the survivor benefit as early as possible and provides you time to build up the maximum worker benefit.

As you can see, there are ways you can potentially raise your Social Security benefits. These strategies can help you maximize your benefits beyond what is available to those who simply delay retirement to age 70.

1. SSA.gov, 2023
2. SSA.gov, 2023
3. Kiplinger.com, March 29, 2023

Edward C. Rusnak
Joseph Yang
Sagemark Consulting
3000 Executive Parkway, Suite 400
P.O. Box 5154
San Ramon, CA 94583

Phone: (925) 659-0372
Fax: (925) 804-2472
E-mail: Edward.Rusnak@LFG.com

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Detecting Breaches Early Reduces Claims: Report

MANY BUSINESSES devote their cyber security dollars to technologies designed to prevent attacks, such as firewalls, virtual private networks and anti-malware applications.

But, an October 2023 report indicates that they might do better to focus both on prevention and detection. Enhanced emphasis on detection could make cyber attacks less severe, resulting in smaller cyber insurance claims and possibly lower future premiums.

The report from Allianz Commercial found that a tiny fraction of all cyber attacks — 2% — account for the overall amount of cyber insurance losses. Organizations quickly contain 90% or more of other attacks. The dollar loss from most of them is less than the policy deductible; many of these losses are never reported to the insurance carrier.

Cyber attacks are either detected and contained quickly with small dollar losses, or they become full-blown expensive crises. Few fall between these extremes. Detecting an attack in its early stages is the important factor in limiting the damage it causes.

Prevention is not foolproof. If hackers encrypt or steal a company's data, the costs of recovery and downtime skyrocket.

The report's authors found that attacks not caught in the early stages can be more than 1,000 times more expensive than those nipped in the bud. An attack that would cost \$10,000 if caught early can end up costing \$10 million or more otherwise.

Despite that, the report found that two-thirds of cyber security budgets are spent on prevention. Early detection systems are plentiful, effective and constantly improving, but they get a smaller share of organizations' spending. As a result, only one-third of organizations detect security incidents through their own information technology staff.

WHAT YOU CAN DO

To improve early detection, you may want to consider these steps:

- Regularly assess your business's cyber security risks. Identify potential threats, evaluate how serious they are, and prioritize them to determine which to address first. Perform assessments annually or as the organization's operations and technology change. For example, if your business offers new product lines, a new assessment should be done.
- Devote more resources — equipment, software and personnel — to incident detection.
- Implement policies and procedures for storing data, routinely encrypting sensitive stored information, and securely deleting it when no longer needed.
- Adopt a written incident response plan designed to enable early detection and mitigation of cyber incidents. It should describe the tasks each person involved in the response will perform.
- If your organization is too small to have a dedicated cyber security staff, work with a qualified IT security firm to respond to attacks.

The takeaway

Cyber insurance should be part of every organization's risk management program. Many insurers, in addition to paying recovery costs and business interruption losses, offer forensic specialists to determine how an attack occurred. Ask us about a cyber insurance policy appropriate for your operations.

Even the best defensive line will occasionally give up a big play. Early detection of cyber attacks will help your organization minimize the resulting damage. ❖



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