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Holiday Party Hangover: The Importance of Anti-Harassment Training

Holiday parties provide an excellent opportunity for businesses to show appreciation to their employees, reduce stress and ring in the new year. Holiday parties, however, can also lead to unresolved issues that linger around the workplace, lower productivity and may even result in litigation.

Employers maintain a duty to protect their employees, and their workplaces, from harassment. This duty is not curbed when employees clock out and prepare the workplace for a holiday party. In fact, an employer's duty to safeguard their employees from harassment is not even left behind at the office when employers hold their holiday parties offsite. Rather, this duty extends to all work-related activities, such as holiday parties, even when they are hosted beyond the employer's office.

Yet, while an employer may maintain a comprehensive anti-harassment policy, the mere maintenance of such policy, alone, is likely insufficient to establish a legal "defense if the employer fails to implement those procedures or to appropriately train employees." Indeed, on September 29, 2023, the Equal Employment Opportunity Commission ("EEOC") issued its proposed ["Enforcement Guidance on Harassment in the Workplace"](#) which primarily seeks to prevent workplace harassment. According to the EEOC, for anti-harassment training to be effective, it should, among other things, be "provided on a regular basis to all employees." The regular training, implementation and enforcement of an employer's anti-harassment policy may provide an employer an affirmative defense in response to an allegation of harassment.

The close of the year, especially before employees participate in work-related holiday party festivities, is a great opportunity for employers to provide employees anti-harassment training. There are inherent risks associated with work-related parties if employees are not properly trained on harassment issues. In 2019, for example, the EEOC brought a harassment lawsuit against a California company in response to conduct related to a holiday party.¹ At the close of the holiday party, one employee invited several

¹ *U.S. Equal Emp. Opportunity Comm'n v. Elite Wireless Grp., Inc.*, No. 219CV02187MCECKD, 2022 WL 256864 (E.D. Cal. Jan. 27, 2022).

other employees to another location to continue celebrating. After, there were reports that an employee sexually assaulted another employee in a hotel room. Even though this conduct occurred offsite and after the company's holiday party, the EEOC nevertheless sought to impose liability on the company for the employee's conduct.

Harassment training can help resolve any lingering issues stemming from a company's holiday party and effectively cure a company's holiday party hangover. Harassment training not only aids employers in fulfilling their duties to foster a safe and healthy work environment for their employees, but also promotes a professional workplace culture.

Although providing intermittent harassment training can benefit a company's work environment by correcting unwanted behavior in the short term, regular harassment training creates a more productive and worker-friendly atmosphere in the long term. In fact, states such as California, Connecticut, Delaware, Illinois, Maine and New York require training on sexual harassment in the workplace.

Kutak Rock's [National Employment Law Group](#) offers harassment training services that could help your business foster a more productive working environment and mitigate against sexual harassment claims. Additionally, if you have any questions about your state's harassment training requirements, or how they may impact your organization, please contact your Kutak Rock attorney or a member of the firm's [National Employment Law Group](#). You may also visit us at www.KutakRock.com.

