

Is Your Business Prepared for the Legal Risks of the Company Picnic?

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With the arrival of summer, employers may be planning summer activities and offering other benefits or incentives to their employees. Manufacturers, whose employees have been frontline workers for over two years, may be particularly interested in providing such benefits to thank employees for their service. As part of the planning and implementation process of such benefits, employers should understand the relevant legal risks of such actions and steps available to minimize those risks.

Summer events, outings, and similar activities can create risks in situations in which employees and managers are more relaxed and engaging outside the typical workplace environment. Before such events occur, employers should clearly communicate the relevant expectations of behavior, which may include reminders that all workplace rules and policies remain in full force and effect, regardless of where the activity occurs. Likewise, employers should ensure that supervisors and managers model appropriate behavior and are properly trained on how to address concerns or complaints that may arise during such events. Employers planning to have alcohol served at such events and activities should determine whether there are ways to limit consumption (e.g., drink tickets), best practices for controlling such service, whether any relevant insurance or licensing is necessary, and whether travel arrangements may be necessary to ensure employee safety, among other issues. Lastly, employers should be familiar with current laws and guidance regarding COVID-19 that might be applicable to safely hosting such events.

With regard to events that include physical activity – and events generally – employers should evaluate whether they may be subject to any workers' compensation obligations, especially where the activity may be considered as occurring within the "course or scope" of employment. To minimize potential liability, employers may consider asking employees to sign a document acknowledging that the activity is completely voluntary and confirming that the employee is assuming certain risks in choosing to participate. Also, employers should consider activities and events that are inclusive of all employees and may appeal to employees broadly and that do not require knowledge of a sport or activity or specific physical ability or skill.

Lastly, manufacturers may choose to provide incentives or benefits to employees, especially this year when such employers may wish to convey appreciation to their frontline workers. For example, manufacturers might choose to implement shortened workweeks or workdays during the summer

months by implementing programs permitting employees to leave early on Friday or take off that day in the summer. Similarly, employers may be contemplating offering free tickets to sporting events or concerts, meal vouchers, or other free items. Other employers might revise their paid time off/vacation policies to increase flexibility. For all such policies, it is important to ensure that changes to leave and benefits are consistent with applicable law, including as it relates to employment, benefits, and tax laws, and policies and benefits are applied or provided fairly and consistently.

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