

Compliance Reminders For Workplace St. Patrick's Day Fun

By **Keith Markel and John Fulfree** (March 14, 2022)

To say that the past two years have been a chaotic period for businesses is an understatement, with employers and employees forced to remain vigilant over the risk of exposure and spread of COVID-19 in the workplace.

Historically, celebrating St. Patrick's Day on March 17 each year with work colleagues has been a great way for employers to build morale and show their appreciation for employees and the Irish community.

Now that COVID-19 restrictions are finally coming to an end, and employees are heading back to the workplace, employers must be careful to ensure that a wee bit o' office fun doesn't create potential liability or adverse employment consequences for both employers and employees.

Employers don't have to rely on the luck of the Irish in order to create a safe work environment and avoid legal problems when hosting or supporting St. Patrick's Day celebrations, so long as these simple tips are followed.

Reinforce and Remind Employees of Company Policies

It is always best practice to remind employees that, whether a St. Patrick's Day party is held in the office or elsewhere, employment policies and laws governing the workplace still apply at all times, and common sense must prevail.

Since many employees have frequently or exclusively worked from home over the past two years, a thorough reminder concerning workplace policies and appropriate conduct is in order, regardless of the occasion.

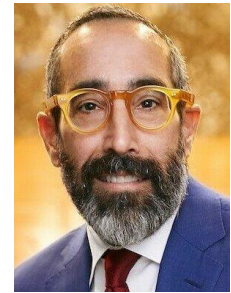
Employers should remind employees that violations of company policy may lead to discipline, including termination of employment as well as potential legal liability for those involved.

Many states, such as California, Connecticut and New York now require employers to provide annual sexual harassment training for all employees, so now is the perfect time to conduct these trainings and inform employees about the implementation of any new policies and changes in the law that have occurred since the pandemic started.

Specifically, employers should consider addressing the following topics with employees to foster a safe workplace and mitigate against the risk of liability during St. Patrick's Day celebrations.

Dress Codes

While encouraging green clothing may make the workplace seem festive and fun on St. Patrick's Day, employers should remind employees to keep any objectionable attire at home.



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For example, wearing t-shirts that say "Kiss Me I'm Irish" or "Kiss My Shamrock" or wearing other potentially inappropriate attire in the workplace may be offensive to some and give rise to potential complaints.

As such, employers should remind employees of appropriate dress code policies in the workplace and refrain from wearing clothing that includes comments or images that may be considered offensive to fellow employees even if worn in good spirit for St. Patrick's Day.

Inappropriate Traditions

Employers should remind employees that not all St. Patrick's Day traditions are appropriate in the workplace. For example, employees should refrain from engaging in old Irish folklore traditions such as pinching their colleagues who are not wearing green — even if done in jest for St. Patrick's Day.

Employers need to remind employees to keep their hands to themselves regardless of the celebratory reasons for doing so. Unwelcome touching, pinching or other inappropriate physical contact in the workplace can lead to potential harassment claims, regardless of the offending party's intent.

The same is true for telling Irish jokes even if said in the spirit of St. Patrick's Day. Employees should be reminded that harassment is subjective, and what may seem like innocent joking, teasing or touching to one employee, may be offensive to another.

Consumption of Alcohol and Parties

Employees may be seeking a bit of green beer at the workplace to celebrate St. Patrick's Day, but consumption of alcohol at parties during and after work hours may lead to unwelcome shenanigans and inappropriate behavior.

The safest way for employers to avoid liability is of course to refrain from serving, or allowing the consumption of, alcohol altogether. Employers may consider serving nonalcoholic green drinks as a fun alternative. Other options include only serving drinks for a limited period or only serving beer or wine as opposed to spirits with higher alcohol contents.

Employers should also remind employees that any after-party festivities outside the workplace are not condoned. Employers should understand that any gathering of two or more employees, even at an employee's home, can be considered an extension of the workplace if somehow such festivities were supported or encouraged by the employer.

Simply stated, harassment and discrimination laws apply to the same measure and force at company sponsored functions outside the workplace as they do in the office. Employers should therefore remind their employees that company policies apply equally to them at all times — even outside the workplace — when celebrating with work colleagues for St. Patrick's Day or any other festive holiday.

Harassment Reporting Procedures Still Apply

Employers should remind managers and supervisors of their mandatory reporting requirements under the law and under company policies, especially if managers and supervisors learn of or witness any potential misconduct during any St. Patrick's Day celebration.

Many states, such as New York, impose strict liability on the employer if a manager or supervisor is aware of harassment and does nothing to report it to the company. Therefore, despite managers' and supervisors' desire to drink and enjoy the St. Patrick's Day celebration, they remain responsible for comporting themselves as if they are in the workplace, and reporting harassing behavior in compliance with company policy and the law regardless of the location.

Indeed, St. Patrick's Day and other festive holidays are a good time to remind employees about company policies for reporting any complaints of discrimination or harassment, including where to find an internal complaint form, or who to report the misconduct to at the company.

Employers must also encourage prompt reporting and ensure that no employee is retaliated against for filing complaints under any circumstance.

Managing Applicable Sick Leave Entitlements

As the luck of the Irish has it, St. Patrick's Day falls on a Thursday this year, which means employers can likely expect an uptick in employee absences the next day. Employers must be mindful that state or local laws, including New York City laws, protect an employees' right to take sick leave regardless of the employer's business needs.

Although employers can still require an employee to provide reasonable notice of an employee's foreseeable need to use sick leave, employers cannot require advance notice when there is an unforeseeable need to use sick leave. Thus, on the heels of holidays like St. Patrick's Day, employers must be careful to manage requests by employees to take sick leave in compliance with the law.

Conclusion

Following these simple steps will not only serve to remind employees of the importance of adhering to company policies and employment laws, but they can also help to foster a safe work environment and protect employers from costly litigation.

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