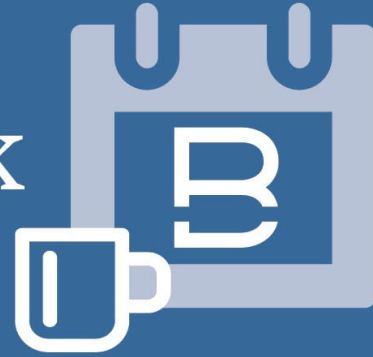


The Work Week

Bassford Remele Employment Practice Group



October 30, 2023

Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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The Tricks to Making the Workplace Halloween Party a Treat

[Michael J. Pfau](#)

Every year, employers debate whether to throw a workplace Halloween party or allow their employees to dress up for the occasion. While workplace events and allowing costumes can be a great team-bonding experience, there are still risks and considerations for employers to contemplate.

Consider this example. You throw a Halloween event that allows employees to wear costumes. One of your female employees comes to work wearing a doctor costume, and her male supervisor tells her, “[h]ere Doctor. It hurts here,” while pointing at his groin. That incident then becomes evidence in a sexual harassment claim brought by that female employee against the company in which she is awarded \$750,000 in the end. Sadly, this is not a hypothetical situation, but a scenario based on a case here in Minnesota. *Duane v. Sears Home Improvement Products, Inc.*, No. C5-03-305, 2003 WL 22999363, at *2 (Minn. Ct. App. Dec. 23, 2003). Maybe this an extreme example, but it goes to show how a seemingly innocent Halloween event can morph into a much larger issue if employers do not take certain precautions.

To prevent that nightmare scenario, employers should consider the following in deciding whether to throw that Halloween event or let employees dress up and how to go about doing so:

- **The nature of your business**
 - Will clients, customers, or external stakeholders be in the office or on video conferencing calls that day? If so, you may want to disallow dressing up to maintain professionalism.
- **Establish a clear policy with respect to dressing up**
 - Employers should circulate a written policy addressing Halloween costumes, including, explicitly stating whether they are allowed or not.

- **If costumes are allowed, the dress code still applies**
 - Employees may be tempted to test the limits of the dress code when it comes to wearing a costume. Remind employees in writing that the dress code still applies. Employees should be able to fully and safely perform their duties in their costumes.
- **Remind employees to be mindful with their costumes**
 - Remind employees not to wear costumes that may violate your company's policy against harassment and discrimination or that could be interpreted as offensive based on any protected characteristic, including race, religion, national origin, ancestry, disability, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
 - Also make a note that employees should be mindful of the props they use for their costumes. Including a fake weapon, no matter how outlandishly fake, can pose a safety risk and make other employees feel unsafe or even threatened.
- **Do not make it mandatory**
 - Celebrating Halloween is prohibited by some religions, so you don't want to single anyone out and infringe upon their religious rights in the workplace.
- **Avoid or limit the alcohol at the event**
 - Alcohol mixed with a questionable costume can be a nightmarish combination for employers.
 - If you are providing alcohol, avoid unsupervised open bars, consider using drink tickets, and provide food and non-alcoholic beverages.
 - Ensure that employees have a safe way to get home.
- **A virtual event is still a work event**
 - With hybrid and fully remote work models becoming the norm, many employers are hosting virtual events or allowing their employees to dress up at home to show off their costumes over video conferencing platforms.
 - Despite not being physically present at the office, any virtual event is still a work event and employers should remind employees that workplace policies still apply.

There are ways to throw a successful Halloween party or allow employees to dress up while minimizing your exposure to potential issues or liability. At Bassford Remele, we regularly advise and counsel employers on updating policies, handbooks, and employee duties to remain compliant with changing laws. Please feel free to reach out if you need any assistance in developing a proactive plan to ensure future compliance.



<https://www.bustle.com/entertainment/the-office-halloween-episodes-ranked>

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