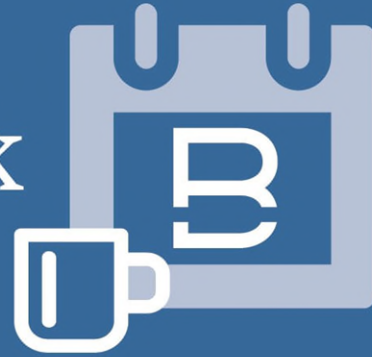


The Work Week

Bassford Remele Employment Practice Group



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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 December Dilemma – Employment Tips for the Holiday Season

For many of us, the December season is filled with family traditions and customs. While many U.S. employers have a set holiday schedule that accounts for Christmas, there are many celebrations that go unnoticed. The month of December is home to several celebrations across cultures and religions, including Hanukkah, Kwanza, Christmas, Las Posadas, Bodhi Day, and the Winter Solstice, to name a few.

With so many celebrations taking place, the month of December can become taxing as we navigate workplace conversation and participation. This has come to be known as the “December Dilemma,” the time of year where religious and cultural differences are magnified, leaving individuals feeling uncertain in their workplace interactions. From wishing one another a happy holiday, to attending the company holiday party, taking time off or decorating workspaces, employees can often feel neglected in the December season.

So how can employers overcome the December Dilemma? Incorporating the various observances doesn't have to be complicated. Here are some tips to support a diverse workforce, remain compliant with workplace policies, and minimize employee claims.

Beginning with religious and cultural differences, it is important that employers promote religious equity through accommodation requests and permitting decoration displays.

Religious Accommodation: Federal law prohibits religious discrimination in employment. Title VII of the Civil Rights Act of 1964 requires employers to reasonably accommodate the religious practices of an employee, unless to do so would create an undue hardship upon the employer. A reasonable accommodation may include allowing holiday time substitutions, flexible break schedules, voluntary shift swapping, or letting employees come in early or stay late to make up for hours missed. Employers are encouraged to be mindful in their approach when responding to employee requests for time off to

observe a religious holiday. Employers cannot give preference for time off to people of one religion over another and should apply any religious holiday policies equitably throughout the year. And, [as covered earlier this summer](#), the United States Supreme Court modified the legal standard entitling employees to religious accommodations, so employers must remain mindful of this new threshold.

Decorations and Religious Symbols: It is common for employers to decorate shared spaces for the season and employers often allow employees to decorate their individual work areas. There is a distinction made between shared or public areas and individual workstations not accessible to the public. Employers decorating public areas should be mindful of being inclusive with their displays. While trees and garland do not violate federal law, putting up symbols of other season observances may create a sense of belonging for all employees. When it comes to individual workstations, employees with private workstations should be able to display religious symbols to the extent that they are permitted to display their personal objects.

Though employers are free to ban all holiday symbols during the season, permitting them may support a sense of employee belonging. Employers who choose to permit holiday decorations should be as inclusive as possible and should respect the many diverse beliefs and customs held by their employees.

Holiday Parties: In addition to celebrating the holidays, the December season marks the end of the year. Often, employers view this as an opportunity to celebrate the year's successes and thank employees for their efforts by hosting a company party. It is important for employers to practice the religious and cultural awareness in the way they execute the celebration. For example, being inclusive with decorations, being mindful of the date of the party, awareness of dietary restrictions and offering non-alcoholic beverages. However, it is equally as important to consider potential legal consequences hosting a company party.

If non-exempt employees are required to attend the company party, they must be compensated for their time. If the party occurs during normal working hours, non-exempt employees can attend on the clock during their regular working hours. However, if the party takes place outside of working hours, and attendance is required, time spent at the party by non-exempt employees must be counted as work hours for determining any overtime hours and pay. Employers are encouraged to make party attendance voluntary understanding that if the party takes place during work hours, non-exempt employees will still be paid.

Finally, what to do about alcohol? We have all heard horror stories of company parties gone wrong. There are a number of ways employers may potentially be held liable for injuries caused by employees who consume too much alcohol at company functions. If employers choose to serve alcohol at the company party, they can minimize the risk of liability by limiting the amount of alcohol being served and/or providing transportation for employees who attend.

In the midst of closing out the books, forecasting for the next fiscal year and celebrating a year of successes, the December season can quickly become overwhelming. There are ways to celebrate with employees while minimizing exposure to potential issues or liability. If you're seeking guidance or have questions or concerns, the experienced attorneys in Bassford Remele's [Employment Law practice group](#) are here to assist you.

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