



Supervisor Newsletter

Supervisor Duties and Responsibilities

Supervisors who allow employees to drink or use drugs on company premises—or who go out drinking and partying with employees after work—place themselves and their company in precarious legal positions.

A supervisor who witnesses an employee using illegal drugs or indulging in alcohol has a responsibility to report it to the company. From a legal standpoint, once a manager has knowledge of something, the company has knowledge of it, too. Hearing an employee speak negatively about the company or coworkers—or seeing an employee make unwanted sexual advances toward another worker (as sometimes happens when people are “partying”)—puts the supervisor in a very difficult spot.

Avoiding Lawsuits

Allowing employees to drink or use drugs on company property after work could result in lawsuits by injured workers. Personal injuries due to falls, assaults, smoking-related fires, and claims alleging harassment or other improper employee behavior have all occurred after company-sponsored parties and events.

Many companies have been sued by employees and held liable for damages or injuries caused by an intoxicated coworker. Employers and supervisors have been found guilty of direct negligence, and were held responsible for vicarious and/or statutory liability.

The scope and extent of employer/supervisor liability vary widely by state, and some states have social

host laws that might lead supervisors to believe that they are insulated from liability or prosecution. But in a recent case in Oregon, the Oregon Supreme Court found that an employer and supervisor were not immune from prosecution under that state’s social host statute.

In the Oregon case, a receptionist at a construction company had declined multiple invitations by her supervisor to join him and other employees for drinks after work. In spite of her previous refusals, she was pressured by her manager to accept an invitation so that her growth in the company would not be negatively impacted. She finally agreed to leave work early one evening to join her supervisor and coworkers at a nearby bar. At the gathering, the supervisor encouraged the employees to drink, and even teased another employee for attempting to leave after only two drinks. The receptionist became extremely intoxicated and was later involved in a serious car crash, resulting in severe injuries. The Court found that both the employer and supervisor were not immune from claims that they acted negligently in performing their roles as employer and supervisor.

Fraternization Problems

It is not uncommon for coworkers to go to a bar to socialize after work. But when a supervisor is present at these get-togethers, he or she has a duty of care to the employees and the company. Ignoring this responsibility could create legal liability problems for a supervisor.

If underage employees are present at an after-work gathering or company-sponsored event at a restaurant or

bar, there is an even greater potential for liability. In this case, the supervisor would be expected to take steps to monitor alcohol use and to inform servers that minors are present and that they should see a valid ID before serving alcohol. The supervisor would also need to tell all adult employees present that the company will not tolerate providing alcohol to a minor.

But legal liability is not the only problem that could result from a supervisor partying with employees.

Workers could end up taking advantage of a supervisor who was present at an after-hours event where drinking or drugging was going on. Imagine an employee saying to a supervisor: "I know I was late to work this morning, but I'm sure you won't write me up because you know we were all partying pretty hard together last night."

Employees also might try to take advantage of what they perceive as a "buddy-buddy" relationship if a supervisor participates in or even condones excessive drinking and/or drug use. Personal relationships between supervisors and employees that jeopardize the good order and discipline necessary for workplace safety is never a good idea. There is a reason that the military advises supervisors to not "fraternize with the troops."

Decline Politely

If a supervisor is invited to go out with employees after work but does

not think it is a good idea to do so, there are ways to decline without making anyone angry or disappointed.

If your employees are wanting to spend time with you and invite you out for a drink, recommend some alternatives to meeting at a bar. Meeting before work for breakfast or meeting after work at a coffee shop are a couple of good alternatives. There are also corporate team-building activities available to companies like scavenger hunts, escape rooms, laser tag, and various sports games that do not involve alcohol use. Inviting employees to volunteer to work on a charitable project together is another option. This not only builds camaraderie; it helps the local community.

The Bottom Line

Supervisors should strive to promote an atmosphere of workplace integrity and loyalty and discourage off-duty conduct that could affect employee productivity during working hours. Supervisors have a duty to act when they have first-hand knowledge that an employee's work environment is negatively impacted by another employee's conduct—whether it be on- or off-duty.

Employers should have after-hours conduct policies in place that address off-duty behavior in order to protect the company's reputation or prestige, and supervisors should adhere to and enforce these policies.