

2024

BUSINESS IN 2023

WEEKLY WEBINAR SERIES

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Introduction



Kristen E. Smith

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TODAY'S AGENDA

Kristen Smith – (12:00PM-12:05PM)

- Intros / Agenda

Nick Jacobson – (12:05PM-12:15PM)

- Holiday Party Hazards

Christa Cook – (12:15PM-12:25PM)

- Pay Equity and OFCCP's Increased Enforcement Efforts

Gianelle Duby – (12:25PM-12:35PM)

- NYS Extends Statute of Limitations for All Discrimination Claims

Suba Viswanathan – (12:35PM-12:45PM)

- Increases in the NYS Minimum Wage and Exempt Salary Levels

Holiday Party Hazards



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Holiday Party Hazards



Holiday Party Hazard #1: Alcohol

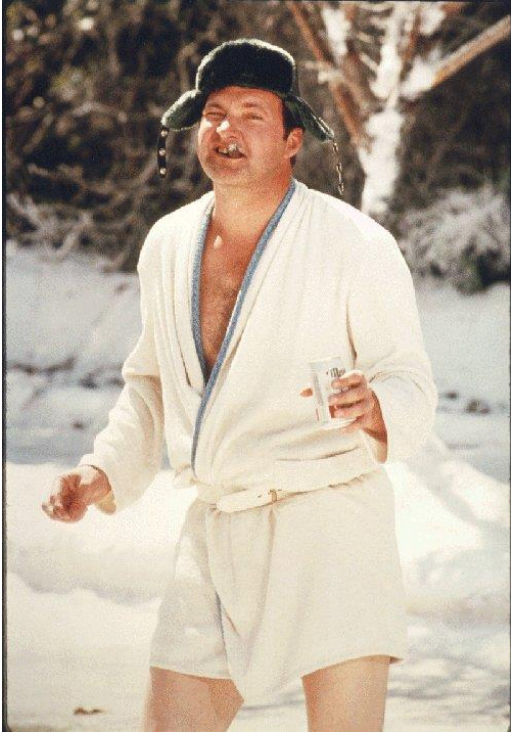


Holiday Party Hazard #1: Alcohol

- Potential for inappropriate behavior
 - Personal conduct policies remain in effect
 - Even if a holiday party occurs outside the office, harassment or inappropriate conduct at a party can still effect the workplace
- Increased risk of injury
 - Employers potentially liable for injuries including injuries caused by intoxicated guests and/or employees
- Drinking and driving



Holiday Party Hazard #2: Guests



Family
and
Friends



Vendors



Kids

Holiday Party Hazard #2: Guests

- Safety and security
 - Protect sensitive information
 - Secure dangerous areas and/or equipment
 - Ensure sufficient supervision and control
 - Think about who will be attending party
- Responsibility to address inappropriate conduct by guests and vendors



Holiday Hazard #3: The Environment



Holiday Party Hazard #3: The Environment

- Employers are responsible for providing a safe environment for guests
 - Slip and falls
 - Unsafe conditions
 - Dangerous activities
- Employees may be entitled to workers' compensation if they are injured at a work party regardless of their own negligence
- For guests injured due to the negligence of an employer, recovery would not be limited to workers' compensation

Other Holiday Reminders

- The Holidays can be an extremely stressful time, with the potential for increased financial and family stress
 - Might be a good time to remind employees of available EAP services
- Employers should maintain an environment that is respectful and tolerant of all beliefs and customs
 - Need to be prepared to address religious accommodations – ex. Time off for religious observances
 - Different standard than disability accommodations

Pay Equity and OFCCP's Increased Enforcement Efforts



Christa R. Cook

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OFCCP's Agenda and Large Financial Penalties

- The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has made pay equity a top priority. It has revised its internal rules and procedures to increase the burden on federal contractors and pave the way for aggressive enforcement in the area of compensation discrimination.
- Executive Order 11246 prohibits federal contractors from discriminating on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin.

OFCCP's Agenda and Large Financial Penalties

- In 2023, OFCCP hired more staff to focus on pay equity audits and announced significant penalties for alleged gender discrimination in pay.
 - Compensation interviews continue to be a common trend during audits.
 - In FY 2023, OFCCP's compensation discrimination settlements alone amounted to over \$5 million.
 - Pfizer, Inc. agreed to pay \$2 million under a recent conciliation agreement.

Overhaul of OCCP's Internal Rules & Scheduling Letter's Compensation Components

- New rule, “Pre-Enforcement Notice and Conciliation Procedures,” grants OFCCP broad discretion and leverage
 - Eliminates evidentiary requirements for OFCCP to issue PDN or NOV
 - Reduces time for employers to respond to PDN to only 15 days
 - Removes any reference to theory of discrimination
- Revised Scheduling Letter
 - OFCCP's new “scheduling letter,” which is used to inform federal contractors that they are scheduled for an audit, requires 2 years of compensation snapshot data, relevant data on factors impacting pay, detailed documentation about contractors' compensation analyses and expands the scope of compensation data to be produced at the outset.

NYS Extends Statute of Limitations for All Discrimination Claims



Gianelle M. Duby

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Increases in the NYS Minimum Wage and Exempt Salary Levels



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Minimum Wage Increases (Already Established by Legislation)

- Upstate New York
 - \$15.00 per hour effective January 1, 2024
 - \$15.50 per hour effective January 1, 2025
 - \$16.00 per hour effective January 1, 2026
- New York City, Nassau, Suffolk, and Westchester counties
 - \$16.00 per hour effective January 1, 2024
 - \$16.50 per hour effective January 1, 2025
 - \$17.00 per hour effective January 1, 2026

Hospitality Industry Maximum Tip Credits Effective 1/1/24 (Proposed)

- Food service workers
 - \$5.35 per hour maximum tip credit/\$10.65 per hour minimum wage in New York City, Nassau, Suffolk, and Westchester counties
 - \$5.00 per hour maximum tip credit/\$10.00 per hour minimum wage in Upstate New York
 - There are proposed increases to the tip credits for food service workers in 2025 and 2026

Hospitality Industry Maximum Tip Credits Effective 1/1/24 (Proposed)

- Service employees (employees who customarily receive tips and meet the tip threshold other than food service workers or employees in fast food establishments)
 - \$2.65 per hour maximum tip credit/\$13.35 per hour minimum wage in New York City, Nassau, Suffolk, and Westchester counties
 - \$2.50 per hour maximum tip credit/\$12.50 per hour minimum wage in Upstate New York
 - There are proposed increases to the tip credits for service employees in 2025 and 2026

Weekly Average Tip Thresholds for Service Employees Effective 1/1/24 (Proposed)

- Service employees at resort hotels
 - \$8.95 per hour in New York City, Nassau, Suffolk, and Westchester counties
 - \$8.40 per hour in Upstate New York
- Service employees in restaurants and non-resort hotels
 - \$3.45 per hour in New York City, Nassau, Suffolk, and Westchester counties
 - \$3.20 per hour in Upstate New York
- There are proposed increases to the tip thresholds for service employees in 2025 and 2026

Increases to Executive and Administrative Exempt Salary Levels (Proposed)

- Upstate New York
 - \$1,124.20 per week effective January 1, 2024
 - \$1,161.65 per week effective January 1, 2025
 - \$1,199.10 per week effective January 1, 2026
- New York City, Nassau, Suffolk, and Westchester counties
 - \$1,200.00 per week effective January 1, 2024
 - \$1,237.50 per week effective January 1, 2025
 - \$1,275.00 per week effective January 1, 2026
- New York minimum salary levels are inclusive of board, lodging, or other allowances and facilities

Salary Requirements for the Professional Exemption

- No New York salary threshold for the professional exemption
- Federal threshold for executive, administrative, and professional exemptions is currently \$684.00 per week, exclusive of board, lodging, or other facilities
 - USDOL has issued a proposed rule increasing this threshold to \$1,059 per week
- No federal salary level requirements for
 - Teachers
 - Doctors, Medical Interns, Residents
 - Lawyers

Increase to Salary Levels for Exemptions from Certain State Laws

- Effective March 13, 2024, the salary level to be exempt from certain state laws will be increased from \$900.00 to \$1,300.00 for bona fide executive, administrative, and professional employees
- Applies to:
 - Labor Law Sections 190/191 – definition of “clerical and other worker” for purposes of pay frequency law
 - Labor Law Section 192 – law requiring written consent to pay by direct deposit
 - Labor Law Section 198-c – law imposing criminal penalties for failure to pay benefits or wage supplements

Your Questions



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Holiday Party Hazards

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Pay Equity and OFCCP's Increased Enforcement Efforts

Christa Cook, ccook@bsk.com

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New York Employment Law: The Essential Guide

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).

Thank You

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It is not to be considered as legal advice.
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