

Can we discipline for bad behavior at party?

Q. At our company holiday party, which was not at the workplace or during work hours, an employee told some inappropriate jokes and put an arm around a co-worker who did not appreciate it and complained. The company is aware that the employee took a leave of absence for treatment of chemical dependency and is concerned that the employee might have been drinking at the party. Can the company discipline the employee? The company would like the employee to get additional help for chemical dependency.

A. You should address the inappropriate behavior and can discipline the employee. You are not prohibited from taking action because the behavior took place out of the workplace and during non-work hours. Given that you sponsored the event, you should take appropriate action to correct the situation, including taking appropriate disciplinary measures and following up with the employee who complained.

In responding to the employee's behavior and possible drinking, you should address the behavior, not the possible underlying condition. You should avoid making assumptions about the reasons for the behavior, such as assuming the employee was drinking and needs treatment, because this could leave you open to allegations of "perceived as" disability discrimination. If the employee seeks help, you may take steps such as referring him or her to the Company Employee Assistance Program and should consider whether it is appropriate to enter into the interactive process and grant a reasonable accommodation.

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