What Every Employer Needs To Know About The Super Bowl

Insights
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The stage is officially set. The Atlanta Falcons will be playing the New England Patriots in Super Bowl 51 on Sunday, February 5, 2017, and no doubt your employees are very much aware of the upcoming game. A good many of them will be among the estimated 115 million television viewers who will be watching, whether they are passionate fans, more interested in the halftime show, or just there for the commercials.

The impact of the Super Bowl will go well beyond that Sunday evening, however. This game will impact your workplace in the days leading up to the event, and even into the next day. Here's what every employer needs to know about the Super Bowl.

Before The Game: Gambling In The Workplace
The biggest question most employers have about big-time sporting events like the Super Bowl or March Madness is whether workplace gambling is legal. Many offices will start a small betting pool where participants are encouraged to "buy a square" or otherwise place wagers on various aspects of the game, and sometimes this form of gambling is encouraged or even organized by management. Is that legal?

Several federal laws prohibit wagers on sporting events, and the actions become much more risky if workers place bets across state lines. But the odds of federal enforcement action against low-end office pools are pretty minimal.

State laws vary around the country, although many permit social gambling on events like the Super Bowl as long as the organizer is not skimming money off the top of the pool, the pool is limited to people you know, and the dollar levels remain relatively low.

That being said, employers should have bigger concerns than whether the authorities are going to conduct a raid on their premises when it comes to gambling in the workplace. Instead, you should be more concerned about problems that can befall an office when large amounts of cash are floating through the building. Also, some workers might feel pressured to join despite religious objections they have to gambling, or just because they don't feel like they can afford to join in. Finally, some of your workers might be "sore losers" and not react well to losing money to a coworker, leading to toxic discord in the workplace.

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In order to address this situation, you should develop a policy addressing gambling in the workplace and enforce it consistently. If you already have one in place, now would be a good time to send a communication to your employees reminding them of your policy. By reinforcing the rules you have in place that you believe are best for your business, you reduce the likelihood of any violations.

As an easy solution to many of these problems, and recognizing that some segment of your workforce will want to have a stake in the outcome of the game, you may want to consider starting a voluntary workplace pool that requires no entrance fee. You can buy prizes with company funds and hand them out to the winners, turning what could be a problematic event into a morale booster.

Days Leading Up The Game: Productivity And Dress Code Concerns

Although many employers first think about gambling in the workplace when they consider the Super Bowl, they really should be thinking about the loss of productivity associated with the game. An estimate produced by the consulting firm Challenger, Gray and Christmas concluded that the work slowdown in the week before the Super Bowl costs American businesses close to $850 million in lost productivity.

Leading up to the game, sports fans in your office will be spending time online reading about the teams and texting their friends with their predictions instead of working. While it is helpful to create and enforce a policy restricting the kinds of activities that your employees can perform on business computers and company-issued smartphones, realistic employers know that most employees will easily be able to skirt these prohibitions by using personal smartphones and tablets.

Instead, you should enforce productivity standards in the days leading up to the game just like you should be doing every other business day. Many companies recognize that their workers will inevitably spend part of their working day on personal business, whether it is running an errand, shopping online, making a phone call, or chatting with each other. Knowing this, most companies ultimately care about whether the assigned work is getting done, and will not micromanage every moment of the day.

Of course, certain hourly workers and other employees have a responsibility not to steal time from you and will need to remain diligently working at all times they are on the clock. No matter your situation, just make sure to consistently enforce your productivity standards and associated policies. Be realistic when addressing these situations, and make sure you don't come down inordinately hard on one worker who may not be acting much differently than a coworker. Inconsistent treatment is the gateway to a discrimination claim.

Finally, and especially if your offices are located in Georgia or New England, you may want to address your company's dress code leading up to the game. If you are going to allow workers to wear jerseys or otherwise dress in their team colors, make sure you are clear in your communications. Consider whether any safety-related concerns could arise depending on the type of work that your employees are conducting.

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The Day After The Game: Monday Morning Absences

Looking ahead to the day after the game, you should prepare for some inevitable absences, no-call/no-shows, and workers arriving late. A survey on this subject from last year found that approximately 1.5 million workers call in "sick" the day after the Super Bowl, while another 4.4 million workers show up late. And most employers know that unscheduled absences are far more costly to a business than planned time off.

The ones who do show up are often distracted by water cooler chats, re-watching highlights from the game (or their favorite commercials), reviewing blogs and media stories about the biggest plays on the field, or nursing their hangovers. All of this adds up to diminished productivity.

When it comes to the workers who do show up for work, make sure you enforce your productivity standards just like you did in the days leading up the game, allowing some realistic forbearance on Monday morning. If you employ workers in jobs that include safety-related responsibilities, make sure to monitor them to make sure that the "case of the Mondays" isn't a legitimate hazard that might require drug or alcohol testing or further investigation. And if you happen to work in the city of the losing team, feel free to cut your workers some slack and let them wallow in misery for a few hours.

As for the absent workers or the late-comers, you will want to enforce your attendance policies consistently. At the same time, you should keep in mind any state or federal leave laws that might protect absent workers or place administrative requirements on you before you take disciplinary action. Where allowed, you should consider requiring "sick" employees to provide medical certification documenting the reasons for their absences, which may dissuade workers from trying to pull one over on you.

Following these steps should allow you to sit back, relax, and actually enjoy the Super Bowl this year instead of worrying about the impact it will have on your workplace.

For more information about how the Super Bowl might impact your workplace, visit www.fisherphillips.com or contact your regular Fisher Phillips attorney.

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