

***First Wednesday — A Monthly Discussion of Employment Law
Issues and Other Hot Topics for Management***



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Office Romance: A Policy Reminder

Workplace dating policies are back in the news. Employers, large and small, are questioning whether they should establish, or strengthen, policies on dating, fraternization and romance in the workplace. Googling “office romance” will yield more than 6.8 million hits, with plenty among them offering advice on how to handle the sociological, psychological and legal implications of romance in the workplace. The interest in this subject was heightened by the publicity given to the termination of Boeing CEO, Harry Stonecipher, whose affair with a co-worker violated the company’s ethics policy. Commentators, human resource consultants and employment lawyers are questioning whether this event signals a new wave of conservatism in workplace attitudes on social relationships between co-workers. In fact, a great majority of businesses do not have policies regulating dating. Surveys reveal findings that support opposite conclusions regarding office romances: either they are rampant and must be regulated for fear of potential liability, or they usually result in either marriage or long term relationships that present no problems.

Policies that regulate romantic relationships typically fall into one of two broad categories: they ban these relationships entirely, or, they prohibit such relationships for employees in supervisor-subordinate relationships. Nevertheless, employers have a variety of tools available to address this issue. Before any employer makes a decision

to establish any policy, however, a careful assessment should be made of the character of the workplace. Every environment will have its own unique personality, and the ultimate goal of any policy should be the efficient regulation of behavior to promote good performance and morale. Morale is a sensitive, two-sided issue. Good morale is promoted by policies that endorse behavior employees find acceptable, and by even-handed application of fair policies. Morale quickly declines, however, if employees believe they are not being treated equally, such as when an employee in a relationship with the boss seems “untouchable.”

The American Management Association’s 2003 Survey on Workplace Dating found that 84% of the organizations polled did not have a written policy on dating. A similar survey conducted by Vault.com found that 76% of companies had no such policy. Yet, Vault.com found that nearly 77% of employees have been involved, or would like to become involved, in an office romance. The AMA study found that 67% of employees believe it is acceptable to date a co-employee; and the number increases to 96% if the question is limited to a co-worker who is neither a superior nor subordinate. The AMA also found that 77% of employees have dated a co-worker.

With the prevalence of dating among employees, and their apparent belief that it is an acceptable practice, it is worth considering the effect of banning such behavior, especially when the surveys show that 44% of the relationships result in marriage and another 23% in long-term relationships. Southwest Airlines has received much publicity for its employee-friendly policies and benefits, including a policy that rewards employees who get married.

The findings of these surveys are informative, and make one hesitate before enacting a restrictive policy. Every employer should balance the pros and cons of policies that regulate romantic relationships. On the one hand, the cost of a claim of harassment, even if a rare case, is significant, even if the case lacks merit. Every employer should have appropriate policies prohibiting harassment, and it is tempting to extend those policies to prohibit all romantic relationships in the workplace. On the other hand, policies that restrict behavior that employees consider acceptable will have an impact on morale, or force the behavior underground.

Employers have choices. Policies can prohibit all social relationships, or place limits on such fraternization among co-workers. Privacy policies can be supplemented to insure that employees understand that romantic relationships are private and are not to be discussed or “displayed” in the workplace. Some employers require that if employees become romantically involved, they must advise the employer so that steps can be taken to insure that no conflicts arise. Employers have required couples to sign “love contracts” acknowledging that the relationship is consensual, willing and voluntary, agreeing to keep the relationship out of the workplace, and acknowledging an understanding of the company’s policies on harassment. Some policies require that one member of the relationship leave the company if the potential for conflict of interest arises.

Ultimately, the employer must decide if such a policy is advisable, and if so, what behavior is appropriate and inappropriate, the procedures that apply, and the remedy or penalty for a violation. The focus of any policy should be on behavior that is most likely to affect the business and morale of the company. It may be unrealistic to prohibit all relationships, but a fairly applied policy requiring a dating couple to notify the employer and to acknowledge the various implications of the relationship, and discouraging intimate relationships with employees for which they have supervisory responsibility, may be the best method of limiting liability, enhancing morale and insuring acceptable behavior in the workplace.

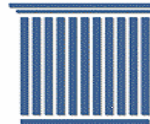
Adopting a policy may be the easiest task. The most important, and difficult, task for the employer is the daily management of the policy: communication and application in a fair, careful, discrete and respectful manner. Employers need protection from unprofessional behavior; but employers also must appreciate that employees in romantic relationships likely do not want the relationship to affect their work lives or the company’s business.

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