

Love is in the Air (and at the Office)

Ahhh, Valentine's Day, when love is all around. But if one of Cupid's arrows lands in your workplace, that warm and fuzzy feeling can quickly turn into headache and indigestion. In your approach to managing office romance, consider the following:

- **A total ban on workplace romance may be a total disaster.** A blanket prohibition against co-workers dating each other may be legal, but it brings with it serious practical problems. Love being what it is, an employer policy against romantic attraction has little chance of actually preventing it. Add to this the morale problem of what may be viewed as a heavy-handed policy, and a total ban against dating may be more cure than needed.
- **Consider a more tailored tack.** Another approach is to have a policy articulating a ban on some, but not all, romantic relationships. For instance, a policy might prohibit employees in a direct reporting relationship from being romantically involved. If appropriate for your company's culture, the policy could provide that no person at a certain management level and above (perhaps a Director level) may be involved romantically with any other employee, regardless of reporting lines. In some workplaces, a ban on relationships between employees in certain functions, such as those designed to be financial checks and balances on each other, may be appropriate. Yet another approach is a policy that does not prohibit relationships in any specific context but states that the company may find a romantic relationship incompatible with its legitimate business interests, depending on the circumstances. In any policy, leave open the possibility that the company may disapprove of romantic relationships in contexts beyond any specifically discussed, including where the company deems there to be a conflict of interest or a risk of financial fraud or collusion.
- **Consider requiring disclosure of relationships.** It is generally a good idea to require that romantic relationships, or at least those where one person holds a supervisory role, be disclosed to higher management. Often, it is not the existence of the relationship that creates the problem but the fact that higher management is not aware of the relationship until something — a conflict of interest or a harassment allegation — hits the proverbial fan. A disclosure requirement is designed to avoid this. An additional advantage of a disclosure requirement is that it provides another basis for adverse action against a non-disclosing manager: the reason for discipline or even termination is not necessarily the fact of the relationship but the failure to be honest about it.
- **Confirming that the relationship is consensual is often a good idea.** If, as a human resource professional, you become aware that employees are romantically involved, you should consider whether it is appropriate to confirm that the relationship is welcome. If the relationship is between peers, this may be an unnecessary intrusion into private lives. However, when the relationship involves employees of unequal power within the organization, it is critical. This conversation need not be detailed or probing but only enough to ensure that the subordinate employee is comfortable with the situation and to inform him/her that, if that should ever change, he/she has a right to have the romantic attention stop immediately and to report it to human resources if it does not. Find an appropriate way to document the conversation (which may be as simple as a confirming email or as formal as a letter signed by the employee, depending on the circumstance).
- **Do not be shy about confronting inappropriate behavior.** An employer has an interest in ensuring that a relationship does not become a distraction or offensive to others. If your company love birds are indiscreet, the company can and should require them to keep their behavior professional at work.
- **Get legal advice before terminating or demoting.** Generally speaking, an employer acts lawfully when it demotes or even terminates an employee as a result of a consensual workplace relationship. However, there are nuances. If one gender tends to be fired or demoted by the employer when romances occur, the employer may be liable for gender discrimination. And, an employee fired or demoted may have a sudden change of perspective and decide that the relationship was really harassment after all. Other concerns arise if the relationship has soured and the employees are no longer able to work together. A consultation with counsel is recommended to ensure that the company has fully accounted for any potential legal issues before taking action.

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