When It Comes to Workplace Relationships, The Cover-Up Does More Harm Than The Hook Up



For workers, the biggest source of peril may not be the relationship itself, but the act of concealing it.

Despite the rising awareness and fear of the damage sexual harassment allegations cause and the fact that most were working remotely, workplace relationships actually increased during the pandemic, according to a recent study by the Society for Human Resource Management. That same study showed that one third of U.S. workers admitted to having had a workplace relationship during their career.

But for workers, the biggest source of peril may not be the relationship itself, but the act of concealing it.

That is obviously particularly true when a company's policy requires disclosure.

A surreptitious relationship creates dramatically greater vulnerability than one which is out in the open, both for the individual and for the company. What are those risks?

1. Other parties who learn of it can threaten to reveal the relationship and potentially get the employee fired in return for benefits or to avoid discipline, particularly when there is a company policy requiring disclosure;
2. The junior party to the relationship is in a position to extort the senior one when the relationship becomes rocky or ends;
3. The employee is too vulnerable to discipline their own subordinates, particularly for that subordinate's own relationship peccadilloes. For that matter, it makes it difficult to deny, even to an underperforming employee, a salary increase, for fear they will retaliate by exposing their secret;
4. Having a secret, which could result in one's discharge for cause, creates tremendous anxiety which can permeate all aspects of both one's personal and work life. Just ask anyone who has ever had an affair;
5. It permits the company to fire that employee, potentially for cause, whenever it learns of it. Look what just happened to Jeff Zucker at CNN.

Some employers prohibit inter-office relationships entirely, requiring at least one of the employees to leave if one develops. I believe such a policy to be excessive.

In my view, every company should have a policy prohibiting superior-subordinate relationships. In addition to the five issues above, such relationships are demotivating to the coworkers of the subordinate, who believe their peer in the relationship will now be advantaged in whatever promotions or other opportunities exist.

Some court decisions have found any superior-subordinate relationship to be inherently coercive, even when both parties protest that it is consensual. In Zucker's case, there was considerable pushback from coworkers who did not wish to see him gone. But in our era of transparency with senior leadership expected to "lead by example," there is no longer tolerance for undisclosed superior-subordinate relationships.

Disclosure also limits the opportunity for successful lawsuits or human rights cases for sexual harassment, to say nothing of an internal, or even public, scandal. Look at the former president of McDonald's, Steve Easterbrook, who first was fired for not disclosing a consensual, but apparently not physically intimate, relationship but was later sued successfully for $105,000,000 for not disclosing, during the severance negotiations, other previous relationships.

Like any other policy, a harassment policy must be circulated so that there is clear evidence that employees knew of it. It should clearly delineate what is and is not prohibited. For example, must any date be disclosed or only sexual intimacy? How is a "date" defined as opposed to simply having coffee with a co-worker? What about a one-time, never-to-be-repeated, sexual encounter after an office party? One can understand that employees would not want to inform their employer about a one-time innocent dalliance and will have questions as to what interactions become a reportable relationship. There should be no policy ambiguity as to what is prohibited.

Such policies also reduce the chance of a more powerful employee pressuring a junior one into a date – or more.

A requirement of disclosure permits the employer to transfer the employees in question so that one no longer reports to the other. Generally, they should transfer the senior one to avoid the junior alleging harassment or retaliation against the company itself.

If you are going to have a policy requiring immediate disclosure, there should be no adverse consequences when the relationship is revealed.

Workplace relationships aren't going away. Companies need to dust off their policies as few provide the protections I discuss above.

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