

When Workplace Romance Goes Bad



Workplace romance had made headlines recently with both the “kiss cam” gotcha moment for Astronomer CEO Andy Byron and the more recent firing of Nestle CEO Laurent Freixe after an investigation into an alleged workplace affair. Both stories captivated the country, in part, because the alleged relationships occurred between superiors and their subordinates. The power inequality inherently in play in such situations added fuel to the fire. But what about workplace relationships between colleagues where no such power structure is in play?

A 2024 Forbes study found that 60 percent of adults report having had a workplace romance in their lifetime. The survey also found that 40 percent of people cheated on their current partner with a coworker, and 43 percent of those surveyed said their romance led to marriage. More than one in three people said they did not report their workplace romance to Human Resources, which, while it may be understandable, can put the company in the crosshairs of future legal action.

The reality is, with people spending so much time at work, it is a natural breeding ground for relationships. Employers can have policies in place, but it is clear people tend to follow their heart not the handbook.

Problems can surface when a workplace romance sours. Employers can be exposed to potential litigation for everything from sexual harassment to a hostile work environment, allegations of retaliation, favoritism, and an assortment of related claims. Such claims can not only be financially costly for an organization, but they can be extremely damaging to the business and its brand.

While no policy or plan can guarantee an employer total immunity from such claims, there are steps that can be taken to best protect your company and its leaders from exposure.

Employment Policies

The first place to begin is with well-crafted policies within the employee handbook. The employer needs to have clearly defined rules. These could include simply a “no fraternization” policy that discourages workplace relationships. Whichever route the employer chooses, the policies must be enforced equally across all employees. It is also important that every employee receives a copy of the handbook, is given a chance to ask any questions and signs an acknowledgement that they have received it and agrees to abide by the policies set forth within.

It is also mandatory in New York State to conduct annual sexual harassment training for all employees. That includes full-time, part-time, seasonal, and temporary employees. This is true whether you have a single employee, or 10,000 employees. As with the handbook, it is best practices (though not required) to get a signed acknowledgement from each employee confirming they completed the required training.

Love Contracts

Another layer of protection for employers is to have employees who are romantically involved sign a consensual relationship agreement, colloquially known as a “love contract” or a “romance in the workplace agreement.” This is simply an acknowledgement that both parties have voluntarily entered into the relationship and that it is mutually consensual and not based on a quid pro quo arrangement. The love contract can also reinforce a company’s workplace harassment policies, with the employees acknowledging they understand and agree to abide by such policies. Some employers add in language which includes such requirements as the parties agreeing not to engage in any public displays of affection at work, or work functions and to inform the employer if the relationship ends.

As with the handbook and annual training, this does not guarantee that an employer will be free from potential claims. However, these agreements are effective tools when defending claims of harassment and/or discrimination based on sex.

The bottom line for employers is this: workplace romance is not going away. Banning office romances outright can be difficult as well. In light of that reality, we work with clients to draft the most effective workplace policies, ensuring they are in full compliance with all state and federal laws and regulations. We educate employers on the training requirements for all employees and encourage detailed recordkeeping. Finally, when a claim of any type does arise, we work to mitigate the situation and resolve it as quickly as possible, securing the best possible outcome for the employer.

Every company is unique, and every situation is different. But one thing remains a constant – being proactive, thorough, and equitable when it comes to policies, trainings and enforcement is the best way to minimize risk to an organization and its leadership.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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