



Do Your Workplace Romance Policies Need an Update? 4 Points for Employers to Consider this Valentine's Day

Insights

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Love is in the air on Valentine's Day – and according to recent research, it has likely found its way to your workplace. Even with the rise of remote work, office romances are commonplace, which illustrates the importance of setting expectations to minimize your legal risk – as well as the impact on employee morale – when relationships sour. You should be realistic when developing your policies, account for company culture, and clearly communicate your expectations with employees. Here are four key points to consider as you decide whether your policies on office relationships need to be revamped to reflect the modern realities of the workplace.

1. Whole Lotta Love: Recognize the Prevalence of Workplace Relationships

You may think workplace romance is rare, but the data says otherwise. The statistics vary on exactly how many people have dated a colleague. According to a 2023 survey by Forbes Advisor, more than 60% of respondents said they've had an office relationship. SHRM research reveals a lower number – between 27% and 34% in recent years – but that's still a significant portion of the workforce.

Moreover, SHRM's research shows that the number of office romances went up during the pandemic despite the shift to remote work. And the Forbes survey found that while 43% of workers who dated a coworker actually married their colleague, an astonishing 40% were cheating on their partner with someone at work.

What do these numbers mean for your workplace? You'll probably want to develop a plan for handling the myriad issues that may arise.

2. When Endless Love Ends: Be Prepared for the Impact

Workplace romances present a tricky problem for employers and employees alike. Most employees would rather not have their employer telling them who they can and cannot date. But from an employer's standpoint, the risks of workplace romances are clear. What begins as a harmonious relationship can easily turn toxic – which is especially problematic if the parties involved need to work together after a breakup.

The romance could also lead to gossip fodder in the workplace, lack of productivity, potential claims of disparate treatment or worse sexual harassment. Even healthy relationships can negatively

or disparate treatment, or worse, sexual harassment. Even healthy relationships can negatively impact coworker morale if they are perceived as a distraction or result in favoritism.

Fortunately, there are many options available to employers to reduce risks when it comes to workplace relationships. In addition to implementing robust anti-discrimination and harassment policies and training, there are various types of anti-fraternization policies directed specifically at this issue.

3. Forbidden Love: Weigh the Risks and Benefits of Anti-Fraternization Policies

Anti-Fraternization policies present options for employers. Some employers choose to implement a policy amounting to a complete ban on romantic personal relationships between all employees. Such a policy discourages workplace relationships by providing you with the ability to discipline employees involved in such relationships. The downside to such policies is that they impact employee morale and come across as an invasion of privacy and an attempt to govern off-duty behavior.

To address this concern, many anti-fraternization policies prohibit only specific romantic relationships between supervisors and subordinates, individuals within the same chain of command, or any relationship where one party has the ability to affect the terms and conditions of the other's employment. Such policies are more common and designed to prevent claims of favoritism or retaliation in the event that the relationship ends badly.

But there are also potential unintended consequences of such strict policies. In reality, many employers will not be able to prevent employees from dating. Once again, when it comes to romance, emotions are often going to supersede handbook policies. If you maintain strict policies banning such relationships under the threat of discipline, employees could simply conceal the relationship. This means that if the relationship ends and an employee later claims that it was not consensual, there may not be evidence or corroborating witnesses to support the defense that the relationship was welcome. Therefore, a policy that is too stringent might cause more problems than it solves.

4. Signed, Sealed, Delivered: Consider a "Love Contract"

To address these issues, many employers have taken another route and have implemented permissive interpersonal relationship policies requiring employees involved in certain types of romantic or personal relationships to report them to the company immediately. Rather than disciplining employees for such relationships, these policies encourage and require employees to come forward with the relationship at the earliest opportunity.

Such policies recognize that employees are going to date, regardless of what a handbook says, and provide employers the opportunity to proactively address the situation. Employers can then remove any supervisory or managerial oversight between the employees involved in the relationship. Further, you can then require that the employees sign acknowledgments (sometimes called "love

contracts”) attesting to consensual nature of the relationship and agreeing that each would be responsible for notifying the company immediately if things were to change.

Every organization is unique, and you’ll want to account for the nature of your business and company culture as you develop your policies and procedures. The key is to be realistic while also mitigating legal risks and workplace disruptions that are caused by romantic relationships between coworkers.

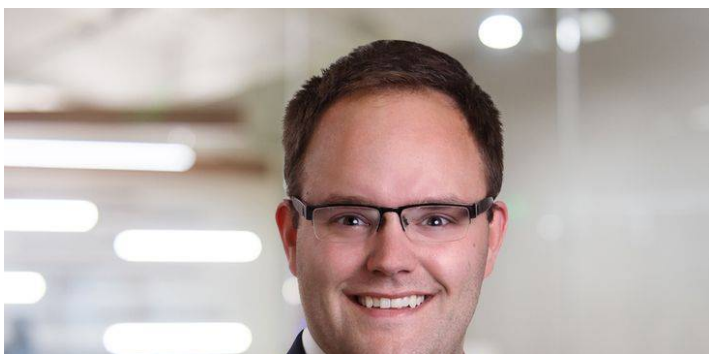
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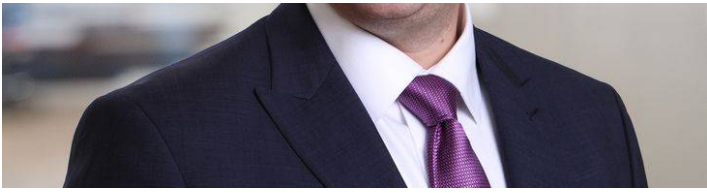
With Valentine’s Day approaching, it is prime time to review your stance on employee relationships and develop a plan of action. Your Fisher Phillips attorneys are here to help, and for further information, you can contact your Fisher Phillips attorney or the authors of this Insight. We’ll continue to monitor developments that impact the workplace and provide updates as warranted. Make sure you are subscribed to [Fisher Phillips’ Insight System](#) to ensure you receive the latest news directly to your inbox.

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Samantha J. Monsees
Partner
816.842.8770
Email





Joshua D. Nadreau

Partner and Vice Chair, Labor Relations Group

617.722.0044

Email

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