

How About Relationships in the Workplace?

Question:

I'm a business owner and a bit of a romantic at heart. Is there any harm in letting my employees date each other? It is, after all, how I met my wife.

Answer:

The social mores that once kept employees from dating each other are dissipating. According to a 2011 survey of 3,900 workers by CareerBuilder.com, 40 percent of workers reported dating someone with whom they worked over their careers and almost a third of them said they married the individual they dated in the office.

While such news that love is swooning in the workplace may trigger warm fuzzy feelings in romantics, it should sound an alarm for employers. The CareerBuilder survey notes that 30 percent of respondents said their office romances resulted in marriage, but that means a majority of the office relationships ended with breakups. Six percent of workers, for example, reported having to leave a job due to an office romance.

Failed romantic relationships create a minefield of liabilities for employers, as do instances when an employee's romantic advances are not welcomed by another employee. In either situation, the threat of sexual harassment is great. The danger is especially high when supervisors are involved. A third of women in the survey, along with 20 percent of men, reported dating someone with a higher position in their organization.

Employers who fail to take steps to promptly prevent and correct harassing behavior by supervisors can be subject to what is known as "vicarious liability" by which aggrieved employees can sue them for damages. This liability covers not only harassment that is of a sexual nature, but also any harassment based on race, color, sex, religion, national origin and protected activity. In short, vicarious liability holds employers responsible for the actions of supervisors.

When a supervisor's harassment amounts to a "tangible employment action," such as hiring or refusal to hire and demotion or promotion, courts have traditionally found employers liable. When a harassment case lacks a tangible employment action, preventative and corrective measures undertaken by both the employer and employee can influence the amount of liability, if any, according to Equal Employment Opportunity Commission (EEOC)

guidance.

The number of harassment charges filed with the EEOC

and local Fair Employment Practices agencies nationwide increased by 27 percent to 29,000 between 2000 and 2010. At the same time, the monetary benefits awarded in such cases during that period more than doubled to \$98.5 million, not including such benefits from litigation.

This dramatic increase in harassment awards makes it imperative for employers to create, distribute and enforce policies pertaining to office romances and sexual harassment. Accompanying these policies should be procedures for filing complaints and notices of interoffice relationships. Such policies and procedures do not guarantee employers can never be subjected to vicarious liability. The EEOC

has warned that employers can be subjected to vicarious liability if complaints are not properly investigated or if employees lack confidence in the reporting system.

Although the EEOC

asserts small employers can adequately prevent and correct harassment through informal means, I always feel better having important policies down on paper, especially when they can potentially save my business thousands of dollars. Employers interested in establishing office dating and anti-sexual harassment policies should contact an employment law attorney.

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