Workplace romances are inevitable. According to a recent survey by the Society for Human Resource Management, one out of every three American adults is or has previously been in a workplace romance. Given this reality, coupled with the #MeToo movement and the resulting renewed emphasis on preventing workplace sexual harassment, it is important to have a basic understanding of the key practical and legal issues surrounding workplace relationships. Below are answers to five common questions.

1. Is workplace romance unlawful?
No. Title VII of the Civil Rights Act of 1964 is the primary federal law governing sexual harassment in the workplace. Two coworkers having a consensual romantic relationship does not, by itself, violate Title VII. Legal and/or employee relations issues can arise, for example, when romantic relationships involve supervisors and subordinates, when a romance “goes bad,” when there are concerns with favoritism, or when two coworkers bring their romance into the workplace in a way that makes others uncomfortable.

2. When does a workplace romance cross the line?

It is impossible to identify all behaviors that may violate Title VII. Fundamentally, the statute prevents harassment because of a person’s sex. According to the Equal Employment Opportunity Commission (EEOC), “[u]nwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment.”

Harassment can include offensive remarks or physical behavior. While Title VII does not generally prevent teasing, offhand comments, or other isolated incidents, such behavior can rise to the level of harassment if it is so frequent or severe that it creates a hostile work environment. The harasser can be a supervisor, an agent of an employer, a coworker, or even a nonemployee. The victim of sexual harassment can be anyone affected by the offensive conduct.

3. Aren’t some workplace relationships beneficial?

Yes. Research has shown that, generally, employees who form genuine relationships with their coworkers and supervisors are happier and more engaged at work, and less likely to leave for another company. Many employers encourage connections between supervisors and subordinates to improve workplace culture. The concept of a “work spouse,” referring to a coworker with whom an employee has a close personal relationship, is increasingly common given the amount of time many employees spend in the workplace. Studies suggest that this kind of tight bond can increase employee motivation, productivity, and retention. Workplace relationships can, however, become the source of legal or practical woes if boundaries are crossed.

4. What can employers do?

Most employers have sexual harassment policies outlining their expectations regarding behavior in the workplace. Employers may also want to provide regular training relating to those policies—in some states, such as California, Connecticut, Illinois, and New York, such training is required. In addition, given the risks relating to workplace romance, employers may also want to consider implementing policies outlining employee conduct expectations related to romantic relationships with coworkers or even third parties, such as vendor employees. There are a variety of permutations to such policies, and some employers prohibit romantic relationships altogether. Others prohibit only romantic relationships between employees and their supervisors. Sometimes, such policies
identify the situations in which romantic relationships are permitted (e.g., employees working in different departments) or the potential consequences of romantic relationships (e.g., an employee’s being transferred or having his or her employment terminated).

5. What is a “love contract”?

With a workplace romance, particularly one involving a supervisor and subordinate, there is some risk that an employee may allege that a relationship was involuntary. To mitigate that risk, some employers require employees to disclose any workplace romance and enter into a consensual relationship agreement, commonly called a “love contract.” A love contract is a written acknowledgment signed by both employees involved in a relationship confirming the voluntary and mutual nature of the relationship. Generally, a love contract states that both employees have received, read, and understood the company’s anti-harassment policy and that the relationship does not violate the policy. Love contracts can be perceived negatively by employees, so it is prudent to carefully consider their pros and cons.


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