

# Office romance essay



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It is not morally acceptable for employers to make generalized rules against dating in the workplace. Such rules violate the employee's personal rights and may act against a company's best interests. There are morally and legally acceptable exceptions, however, when specific romantic relationships, such as those between supervisors and subordinates, are likely to create a financial and legal liability for a company, and hamper the company from conducting business.

In these cases, it would be morally irresponsible not to have a specific policy forbidding the romantic relationships in question. The Privacy Spectrum The right to privacy can be seen as a spectrum with each end of the spectrum representing positions with which very few reasonable people would find fault. On one end are statements such as one expects privacy when showering at one's own home. On the opposite end are statements such as one should not expect to remain unobserved when sitting in a sports stadium in full view of 35, 000 people and several television camera crews. However, most privacy questions fall somewhere within this spectrum. Is it a violation of privacy to open someone else's present that was accidentally left on your doorstep? (McArther 2001) Reasonable arguments could be made both for and against this scenario creating an invasion of privacy.

Privacy Common Sense A typical company cannot morally or legally forbid someone from joining a local community organization, such as the Lyon's Club. If an employee is participating in the Lyon's club, it is likely being done on personal time and has no direct effect on the workplace. If this person casually mentions to their co-workers that they are a member of the Lyon's Club and invites them to come to a meeting, it is unlikely this would be an

issue for anyone involved. If, however, the employee repeatedly asks co-workers to join the club, left literature on their desks, or acted in some other persistent and intrusive manner, the company now has an obligation to mitigate the situation. Employees have a right not to be harassed at work, and employers therefore have an obligation to ensure that employees are not harassed while at work. Companies should, and usually do, have policies forbidding the type of soliciting and harassing behavior engaged in by this Lyon's Club member.

If the employer is made aware of the situation, by either complaints or observation, the employer has the moral and legal right, as well as the obligation, to intercede on behalf of the employees and discipline the offending employee. In addition to protecting the rights of the employees, the harassment is likely affecting productivity in the workplace – employees are dealing with their co-workers harassment, which is time away from performing their jobs. Morale may also be an issue, as employees become frustrated with their work environment. Should the employer have the right to ask the offending employee to quit the Lyon's Club? Does the employer have that right? From the practical standpoint, an employee that is willing to harass and solicit fellow employees has other issues besides participation in a relatively benign community club.

Therefore, if the employee did quit the club, the behavior may simply reoccur in relation to a different personal activity, such as a church or a team sport. The employer is more likely to achieve the desired result – a change in the behavior at work – by evaluating the situation and making disciplinary and educational actions as deemed appropriate. If the employer does desire

the employee to quit the Lyon's Club, is that a right the employer has? After all, the behavior is affecting the work environment, which the employer has a responsibility to protect. The courts have determined that an employer can violate a person's rights if it is a necessary means to a compelling business interest.

(Gold, 2006) Protecting the employees from solicitation and harassment at work is a compelling business interest. Nevertheless, insisting the employee quits the Lyon's Club is not a necessary means to that end. The employee should be asked to cease the offending at-work behavior. If the employee is having trouble distinguishing between appropriate and inappropriate methods of inquiring about interest in the club, then the employer can ask that the employee simply refrain from mentioning the Lyon's Club at work. In addition, the employment contract between the employee and employer should indicate that termination is a possible result of violating the company's policies. The employee agreed to follow the company's behavioral guidelines; he or she did not agree to give up membership in a private club.

The point of this example is to illustrate the boundaries of the employer's rights. The employer has the right to regulate at-work behavior, but attempting to regulate after-work personal time is generally beyond the scope of an employer's legal and moral rights. This scenario does not fall within the scope of the courts assessment about when a company can violate a person's rights. This situation of personal privacy is not as clear-cut as the first example of someone expecting privacy while showering at one's

own home. But, the argument that it is acceptable for employers to forbid employees from joining the Lyon's Club is a difficult argument to support.

Do not Date the Boss Compare this example to that of two employees who have chosen to engage in a consensual romantic relationship. One of the employees is the CFO of a large manufacturing firm and supervises the other, who is the company's controller. They engage in romantic activities on their own personal time and away from company grounds. They are discreet and the relationship remains hidden from most co-workers. Unlike the Lyon's Club example, the couple's at work behavior has been no different than normal. So if the couple is observing the company's at-work behavior rules, why should it matter what the couple is doing during their own time? Does the employer have a right or obligation to forbid this type of relationship? Yes - the employer has a compelling interest to keep these two employees from engaging in particular behaviors, and requesting that they refrain from dating each other is a necessary means to that end.

The relationship creates a conflict of interest situation as well as a supervisor and subordinate romance. Both of these situations are likely to create liability for the company. Therefore the employer has the legal and moral authority and, in fact, the obligation to forbid this type of relationship. The Compelling Business Interest of Avoiding Conflict of Interest It is standard practice for companies to forbid employees to engage in activities that create direct conflicts of interest? For example, employees of the California ISO, the company that controls the electricity flow for most of California, are prohibited from investing in companies that do business with the California ISO.

This helps avoid potential conflicts of interest, makes it easier to defend against possible accusations of favoritism towards particular energy providers. Companies incorporate checks and balances to help eliminate collusion, fraud, and embezzlement activities by its employees. A typical financial policy is that a controller can authorize checks up to a certain dollar amount, and the CFO must sign anything beyond that amount. The intent of this policy is to discourage the controller from abusing spending power. It is easy to see how this control can be weakened if the CFO and controller are engaged in a romantic relationship. It is common for corporations to prohibit high-level finance employees from engaging in relationships that might foster or enable collusion, fraud, and embezzlement opportunities.

Hanley, 2007) Preventing fraud is a compelling business interest, and prohibiting situations that greatly increase the possibility of an employee committing fraud is a necessary means to achieving this business interest. Another implication of these two particular employees dating is that if they end up marrying, then martial privilege would apply and they could not be made to testify against each other. (Hanley, 2007) Implications of Supervisor and Subordinate Romances The example of the CFO and controller dating incorporates other issues involved with supervisor and subordinate romances. These types of relationships can lead to issues such as:

- Allegations of favoritism
- Allegations of sexual harassment
- Employee morale issues
- Allegations of a hostile work environment

The possibility alone that an employee's activity will create a liability for the company is not enough of a reason to justify violating personal privacy by restricting romantic relationships. If that were the case, companies could justify

prohibiting activities such as skiing because that might increase the company's health care costs.

The possibility of liability must be reasonably high and the implication of such liability must be great. A 1998 survey by the Society for the Human Resource Management predicted that “ 28 percent of...office relationships may result in complaints of favoritism from coworkers, 24 percent in sexual harassment claims, and another 24 percent in the decreased productivity of the employees involved. ” (Wilson, 2003) Other surveys have shown the number of Americans who have dated a co-worker range from 40 to 58 percent. (McArthur 2001) A survey by Vault, Inc “ found that 58 percent of employees had dated someone at work, up from 46 percent two years ago.

Among the 600 respondents, the survey found that 14 percent had dated a boss or superior while 19 percent had dated a subordinate. ” (Navarro 2005) These types of statistics indicate the prevalence of inter-office romances, as well as the likelihood that such romances will create human resource issues that can easily lead to financial damage. Relationships between supervisors and subordinates can have far-reaching consequences. In a ruling that significantly expands the law on sexual harassment in the workplace, California's Supreme Court ruled that workers can sue when a colleague who is sleeping with the boss is shown repeated preferential treatment.

” (Navarro 2005) It is reasonable for a company to be concerned about the impact of inter-office romances and companies actually have an obligation to create policies that seek to prevent the most damaging of these scenarios.

There is extensive opportunity for costly office conflict to occur because of supervisor and subordinate romances. Therefore, in these situations, a company does have the right to interfere with an employee's right to privacy because prohibiting romance between supervisors and subordinates is a necessary means to a compelling business interest. " An employee who knowingly violates an anti-fraternization rule cannot be said to have had a reasonable expectation of privacy in the matter. " (Wilson, 2003) This differs from the example of the Lyon's Club member because the chances are slim that an employee will create a legal liability for their company by joining the Lyon's Club.

In addition, employee allegations of unwanted solicitation or social pressure in the work environment typically do not lead to the same punitive damages as alleged sexual harassment or quid pro quo favoritism. The Middle Ground Given the possible consequences of office romances should companies prohibit all such relationships? Why limit the prohibition to just the supervisor/subordinate scenarios and other areas where conflicts of interest are likely? The support for the argument that companies have the right to restrict specific types of romantic relationships does not apply to the argument that companies can ban all office romances. First, if an interoffice romance is not between a supervisor and someone in their direct chain of command, the issues of favoritism and quid pro quo scenarios simply do not apply. Perhaps the argument can be made that one employee could favor another employee by providing additional assistance or making a project a higher priority, but again, these issues are petty compared to a secretary accusing an employer of requiring sexual favors for a promotion. Because



the likelihood of the company incurring costly legal damages lessens, the company's business interests become less compelling. There is still the probability that an inter-office romance may create a hostile work environment, interfere with productivity, or lower office morale.

(Tuohey 2006) Like the case of the Lyon's Club member, making policies for the specific office behavior rather than the romance itself is more defensible morally and legally, and will help avoid issues stemming from overly restrictive policies. " Restrictive ' policies are controversial, difficult to enforce, and can generate potential legal claims. ' ... (E)mployees resent interference in their personal lives and are sensitive regarding invasion of privacy. (Dreyfack 2005) Policies that attempt to help boost morale and avoid legal action can do just the opposite if they are too restrictive.

An option that lies between having no office romance policy and an overly restrictive policy is for a company to request that employees who engage in romantic relationships where conflict of interests are unlikely acknowledge the relationship to their supervisor and agree that it is consensual. "

Consensual affairs don't fall under the legal definition of harassment. "

(DeBare, 2007) The company will then have documentation on file to defend themselves from potential liability. Contracts, policies against sexual harassment, and employee productivity evaluations are all effective, legal, and moral means of mitigating the potential negative impact of interoffice romances where other liability factors do not exist.

Therefore, the justification for violating an employee's right to privacy – a necessary means to a compelling business end – no longer applies. Since

other means exist to protect the company, a restrictive no-dating policy is no longer a necessary mean and is a violation of employees' right to privacy.