

Responding to Workplace Romance: A Proactive and Pragmatic Approach

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Romance is a fact of life in the workplace. Managers often avoid confronting the workplace romance issue much as one would avoid a sleeping dragon. Why go looking for difficult and dangerous problems when your management plate is already overflowing? About 80 percent of employees may at some time be involved in or know of a workplace romance (Shellenbarger 2004; Taub 2002); yet in both 2001 and 2005 fewer than 15 percent of employers had a policy dealing with romance or sexual relationships in the workplace (Parks 2006). Employees often believe their love life is nobody's business but their own even if it is evident in the workplace and may impact workplace outcomes.

However, organizations often end up dealing with the aftermath of a workplace romance on one or more levels—including accusations of favoritism, sexual harassment claims, Equal Employment Opportunity Commission claims, confidentiality and/or privacy issues, and even workplace violence—all of which result in the potential of legal liability for the organization. The organization—most likely through the office of human resources—should develop policies and processes for managing and dealing with workplace romances. This paper explores literature on workplace romances and presents two hypothetical cases to highlight the issues. The cases are used to discuss human resource management issues and the potential organizational losses that may result from workplace romances. The paper also provides a list of key concepts to be included in an organizational workplace romance policy that will assist practitioners in creating such policies for their own organizations. Suggestions for training and increasing awareness of management regarding workplace romance are also included.

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I. Introduction

The workplace has always been a major place for individuals to meet and learn about each other. This proximity may lead to attraction and romance, which in turn may lead to productivity losses for the organization, charges of sexual harassment, perceptions of employee favoritism, the potential for breaches of privacy, and even workplace violence (Greenwald 2000). In a 2005 SHRM poll (Parks 2006) 40 percent of employees acknowledged being involved in a workplace romance, yet only 12 percent of

organizations have a formal or written workplace romance policy (Shellenbarger 2004). Even fewer organizations include workplace romance and related issues resulting from workplace romance in employee orientation and training, preferring instead to ignore the problem in the hope that those involved will at least be discrete and modest and thus potential negative consequences will be finessed. Due to this lack of preparation, many office managers find themselves dealing on an ad hoc basis with the negative aftermath of failed workplace romances rather than effectively responding to and managing these romances (Meyer 1998). The reality seems clear—workplace romance cannot effectively be banned, and workplace romances are difficult if not impossible to control or manage; yet, guidelines and policy can be created that assist managers and others in competently reducing liability for the firm however the romances turn out.

This paper first addresses the difficulty of defining just what workplace romances are and outlines the potential downside resulting from inept human resource management of these relationships. Second, the paper offers key components and concepts that should be included in a policy on workplace romances in order to minimize negative outcomes. The paper offers two hypothetical cases, developed from documented workplace romance experiences, to highlight some of the issues and the resulting potential liability resulting from workplace romances. The paper closes with a discussion to assist practitioners in creating such policies and in training managers in attempting to manage workplace romances.

II. Literature Review

Although 80 percent of American employees had been involved in or knew of a

workplace romance, as late as 2003 88 percent of companies surveyed had no workplace romance policy (Shellenbarger 2004). Generic human resource management policies may provide guidelines about sharing confidential workplace information and appropriate behavior in the workplace, although these are not directly focused on managing such romance situations or the individuals involved in the workplace romance. Although about one-quarter of American employers attempt to discourage romance in the workplace, only 9 percent of the surveyed firms admit to a policy that outright bans employees from dating (Parks 2006); and in most firms inappropriate workplace behavior is likely dealt with based on company norms, whatever these norms happen to be. The concern of about one quarter of companies in a SHRM survey (Parks 2006) is that sexual harassment claims had evolved from failed workplace romances suggesting that workplace romance and sexual relationships in the workplace need serious organizational management and policy effort and concern.

Prior research on workplace romances has focused on the eventual outcomes of workplace romances, the perceptions of employees and romance participants regarding workplace romances, the impact of these romances on organizational performance, and recommended HR actions and practice regarding attempting to monitor or even control romance in the workplace (Schaefer, Tudor, and Thomas 2001; Powell 2001; Pierce, Aguinis and Adams 2000; Foley and Powell 1999; Powell and Foley 1998; Pierce, Byrne, and Aguinis 1996). Building on existing knowledge, this paper is focused on how organizational leadership—including line supervisors and mid-level managers—effectively respond to workplace romances in a proactive yet pragmatic manner that mitigate negative organizational outcomes.

A. Definition of Workplace Romance

Workplace romance is defined as a mutually desired relationship that includes physical attraction between two members of the same organization (Quinn, 1977, Foley and Powell 1999). Workplace romance is consensual and mutually welcomed (Clarke 2006). More specifically, as with other romances, workplace romances are characterized by desiring to be with the other person and feelings of emotional and physical attraction, which may lead to a sharing of personal information, mutual caring and respect, and quite likely sexual behavior such as touching, kissing and hugging, and sexual intercourse (Pierce, Byrne, and Aguinis 1996). Many employees in the contemporary workplace are working more hours in non-sex, segregated, team-based work environments. Logically, these interactions all contribute to increased romance, dating, and marriage among work colleagues or at least workplace interaction that goes well beyond the purely professional (Rabin-Margaloith 2006). Working together allows people to get to know each other; and as familiarity grows, workplace romances may be more likely to occur. These relationships may form between peer co-workers, supervisors, subordinates, or even with company clients (Rabin-Margaloith 2006). The workplace may even be the ideal setting for developing romantic or sexual interests because of constant exposure; therefore, individuals can evaluate each other in an atmosphere that is non-threatening or time bound (Amaral 2006). The workplace is perhaps the most common place to meet one's future partner or spouse with workplace romances representing about one-third of all romantic relationships in America (BNA 1988). Yet, resulting legal cases and reduced organizational productivity resulting from failed relationships means that workplace romances need to be a focus of manage-

ment's awareness and attention and should be addressed in organizational policy and procedures.

B. Three Types of Workplace Romance

Each workplace romance, or any romance, has unique characteristics; but broad categories of workplace romance need specific mention as different outcomes and implications for the organization are common. This paper examines three categories of workplace romance: employee peer-to-peer workplace romance, supervisor and subordinate workplace romance, and workplace romance when one or both employees are married. Each of these can occur as a heterosexual or homosexual workplace romance. This paper will not address employee motivation in pursuing a workplace romance, although the type of workplace romance (sincere love motive, ego motive, or utilitarian motive) may affect outcomes as well (Powell and Foley 1998).

C. Romances Between Peers or Lateral Romances

Workplace romance between peers, that is employees who work in similar positions in terms of the organizational hierarchy, are often thought of as being more benign in terms of consequences to the organization. These affiliations result from the fact that many individuals spend more time in the workplace than in any other setting, including social settings such as restaurants or public venues, the gym, community meetings, church work, or volunteer projects (Shellenbarger 2004; Powell and Foley 1998). Employees meet people with similar interests, education, and/or background at work. Employees involved in a peer workplace romance often keep their relationship a secret, at least in its early stages. Other employees in the same

workplace are less likely to perceive a peer workplace romance as inappropriate or unfairly impacting power, influence, and/or decision making (Pierce, Aquinis, Adams 2000). One problem with peer romance is that peer romance employees may inappropriately share confidential or sensitive information especially when the involved employees work in different areas of the organization. Other issues may involve inappropriate or explicit sexual behavior in the workplace or even the more mundane problems of spending inordinate amounts of time together instead of attending to work tasks. An over-riding concern from managerial perspective is that if the workplace romance ends badly there might be disruption to participants' and co-workers' job performance (Powell 2001) or the ubiquitous fear of resulting sexual harassment claims (Pierce and Aquinis 2005; Pierce et.al. 2008).

D. Hierarchical Romances

Romances involving individuals at different levels in hierarchical position—or when one of the employees is a manager or executive—can create complicating issues well beyond those involving peer employees. These hierarchical romance/relationships are often viewed as inappropriate and or unfair by the majority of employees because of the power dynamic and supervisory relationship and the potential for abuse or advantage to the lower ranked employee (Pierce, Aquinis, and Adams 2000). This negative perception is especially true for romances involving interns because the intern has even less authority and power than full-time employees and thus is more susceptible to abuse or manipulation. Mentoring can also lead to workplace romance or at least a workplace sexual relationship (Morgan and Davidson 2001).

The involvement of a manager or executive with a subordinate can significantly increase an organization's liability in the aftermath of a failed romance because of differences in power and authority, which may have lead to implicit statements or workplace-related actions made during the romance. Other employees tend to see supervisor-subordinate romances negatively due to the potential of unfair influence in work-related outcomes such as specific assignments, promotions, pay raises, and bonuses, which may have components of discrimination against them because of the perceived benefits to the participants. Thus, these can lead to legal action or detriment to the firm from those not directly involved in the workplace romance including lowered morale (Segal 2005). Also, issues related to confidentiality and privacy may be heightened in supervisor-subordinate romantic relationships (Pierce, Aquinis, and Adams 2000; Delpo 2000). Men more frequently hold the higher position in a hierarchical romance, so a hierarchical workplace romance not only can be a potential workplace disruption issue but also can open the door to gender and discrimination issues (Powell 2001). Clearly, a workplace romance can negatively conflict with the business and legal best interests of the employees (Amaral 2006). It needs to be noted that a woman, or any employee, may consent to a sexual relationship for a variety of reasons, but not necessarily welcome it (Amaral 2006).

E. Romances Involving Married Employees

If one or both of the employees are married, the negative outcomes to the individuals involved and the organization can be further increased. The number of stakeholders affected by this romance expands to include others outside the boundaries of the organization; thus liability for the company expands as well. Extrama-

rital affairs are regarded negatively by North American social norms generally, and this negativity is enhanced by concerns of lack of professionalism or judgment by participants when occurring in the workplace and likely has negative consequences for the reputation of the company as well. The challenge is that companies need to protect themselves from the negative consequences of workplace romance (including harm resulting to individuals who don't work directly for the company) while maintaining a positive workplace environment for all employees (Schwartz and Storm 2000).

F. Sexual Orientation and Workplace Romances

Each type of workplace romance can occur for heterosexual or homosexual couples, although heterosexual workplace romances appear to be more common. Ongoing, and often open, hostility and discrimination toward same-sex relationships leave these employees in an even more treacherous position. Thus, gay employees may be extremely reticent to voluntarily report a relationship or even to admit their orientation. If they are working for an organization where homophobic hostility is present, homosexual employees may realistically perceive no way to talk about their workplace romance without causing themselves negative consequences (Schaefer, Tudor, and Thomas 2001), and some organizations likely react even more harshly to same-sex workplace romances than to heterosexual workplace romances. Homosexual individuals, as do all individuals, want to pursue romantic interests and likely believe their interest or orientation has no bearing whatsoever on performance in the workplace (Amaral 2006). Given strong

feelings by some regarding homosexual relationships, it seems likely that impact on organizational effectiveness may be even more serious with a gay workplace romance. Importantly, the organizational issues such as productivity, harassment, and confidentiality between partners are the same whether the relationship is gay or straight.

G. Management and Workplace Romance

Workplace romance is now common, regardless of its category and has likely always been present in the workplace although perhaps less open in the past. Workplace romances are usually grudgingly tolerated by management, but this tolerance is most likely a default position given that responding to workplace romances and developing policies and procedures to manage them, seems daunting. Management may implicitly agree that romance, even in the workplace, is none of its business. Management may realistically acknowledge that stopping workplace romance or sexual relationships is simply not possible or that its attempts to control or even prohibit workplace romance may push the relationship underground and, therefore, create even more legal complications if the workplace romance ends harshly, for example, making it difficult to prove the relationship was consensual (Amaral 2006). Yet tolerance should not be confused by employees with acceptance. So, although only 9 percent of organizations prohibit workplace romances (Parks 2006), many are reluctant to acknowledge or deal with the accompanying issues until forced to by the potentially negative consequences of these relationships. This reactive instead of proactive attitudes also create grief for the organization.

H. Potential Outcomes of Workplace Romances

It is clear that at least some of the time there are potentially serious consequences of workplace romances in the workplace. It also seems clear that fear of sexual harassment lawsuits leads to attempts to regulate workplace romance, and sometimes these regulations in turn lead to issues of discrimination or damaged privacy rights (Clarke 2006). The organization may find itself in a no-win situation. This section of the paper reviews the positive and negative outcomes of workplace romances. Other related aspects including Equal Employment Opportunity Commission actions, sexual harassment, and legal implications regarding various managerial actions dealing with workplace romances are also examined.

I. Positive outcomes

Some research indicates that the energy associated with workplace romance may be channeled into work and dating employees may have higher productivity than before the romance (Heathfield 2002). There is related research on workplace friendship suggesting reduced stress, increased communication, better workplace outcomes, and even greater acceptance of organizational change (Berman et al. 2002). In addition some organizations experience lower turnover because married employees who work in the same company tend to stay with the company (Wilson, Filosa, and Fennel, 2003). Wilson et al. (2003) found that 55 percent of workplace romances end in marriage, so workplace romance can lead to positive organizational outcomes. Pierce and Aquinis (2003) found that workplace romance has a positive effect on organizational commitment and neutral effects on job performance or motivation. However, another 45 percent of workplace romances do end,

sometimes unpleasantly; and some of these failed romances do result in negative work-related or legal outcomes.

J. Negative outcomes

Negative outcomes from workplace romances are numerous and may include lower productivity on the part of the couple and the co-workers, claims of retaliation when the romance ends, complaints of favoritism on the part of other workers during the romance, negative perceptions of the organization or its employees by those both inside and outside the organization, and possibly even violence (Greenwald 2000; Schaner 1994). The literature and research regarding productivity are mixed; and although Pierce and Aquinas (2009) note positive outcomes for many workplace romances, the failed romances cannot be ignored; and these negative outcomes are where management time, effort, and potential liability will lie. Morale may suffer as a result of alleged favoritism or perceptions of inequality (Amaral 2006). Despite concerns about potentially lowered morale and productivity, the largest fear is with consequent sexual harassment lawsuits. Yet, of an estimated ten million workplace romances per year, only 51 sexual harassment lawsuits were filed resulting from a failed workplace romance (Pierce et al. 2008), out of over 14,000 lawsuits filed annually over the past decade (U.S. EEOC 2008). Frankly, the negative consequences may be overstated but certainly have impact even if mostly driven by false attribution and perception, although sexual harassment lawsuits can be very expensive if found to have merit. Managers have legitimate concerns about workplace romances but are most worried about negative outcomes if the romance fails, especially if one of the parties or even a third-party stakeholder feels vindictive or angry.

K. Sexual Harassment and Workplace Romances

The Equal Employment Opportunity Commission receives over 14,000 sexual harassment claims annually (U.S. EEOC, 2008). Sexual harassment claims are based on either quid pro quo or hostile environment issues. The distinction between workplace romances and sexual harassment is that workplace romances are mutual and consensual in nature; whereas, sexual harassment is not (Pierce, Byrne, and Aguinis 1996). The EEOC defines sexual harassment as "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of 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" (Source: <http://www.eeoc.gov/facts/fs-sex.ntrm>).

At least in the early stages, sexual harassment itself, like beauty, is in the eye of the beholder. The harasser may feel that he/she is simply flirting, being cute, or making a joke; and the harassed may not initially sense the behavior as harassing until it is repeated. On the other hand, just because an employee thinks he or she is a victim of sex harassment does not necessarily make it so. Thus, the issue of sexual harassment is subjective to some extent, and management cannot ignore or brush off accusations even if it appears the claim has no merit.

L. Legal Action and Workplace Romances

Once complaints or lawsuits are filed, management's ability to respond and the nature of that response to a workplace romance situation is limited. Often these cases are based on subjective perception, and the de-

gree of management liability may hinge on the belief that the firm is somehow responsible for the negative consequences to the individual caused by the romance undertaken at the company. Management might not have even been aware of the romance, or its detrimental effects, until the negative consequences occur. Even in this brief summary, it seems apparent that the downsides of failed workplace romance are substantial even if most workplace romance complaints or issues are *settled* at the employer/employee level. Although lawsuits are rare, the damage to workplace effectiveness caused by workplace romance is perceived as serious by many in management.

The bottom line for employers is serious not only in terms of productivity losses but also in terms of economic risk and cost—with extreme situations costing millions of dollars. Other negatives include the employee's credibility or integrity, especially for the accused and even potential stalking or physical violence. Legal actions resulting from failed workplace romances could include claims of sexual harassment, claims of wrongful discharge, claims of invasion of privacy, or even third-party claims of alienation of affection, just to name a few. Regardless of this myriad of problems, most workplace romance policies are aimed at preventing sexual harassment lawsuits (Pierce and Aguinis 2009).

M. Line Managers and Supervisors and Workplace Romances

Many managers and supervisors remain uncertain of how to recognize workplace romances when they occur, or what should happen once they perceive or know that two employees are involved in a romance. A clear workplace romance policy, as part of effective Human Resource policies, would certainly assist these managers in managing a workplace

romance. Obviously, some employees believe that romantic relationships between co-workers are none of management's business and may intentionally try to keep these relationships a secret. Depending on organizational culture or climate, the supervisor(s) or manager(s) of the two employees involved in a romance are often the last people to know about the romance. However, these relationships are difficult to keep secret from other co-workers because the romantically involved employees often spend much more time together than in times prior to the relationship. Other changes in employee behavior that may be related to a workplace romance may be obvious as well. Early intervention on the part of management is completely dependent upon early awareness of workplace romances as they are developing. Without a clear policy and reporting guidelines, supervisors and managers have a much more difficult task in terms of early response and any necessary interventions whatever these interventions may be. Inconsistent response among different managers in various parts of an organization can increase an organization's liability in cases involving wrongful dismissal or employee transfer or with other discipline perceived as unfair or discriminatory. Inconsistent response or enforcement of a workplace romance policy may even lead to claims of disparate treatment on the basis of protected status (Segal 2005).

The potential damage to an organization requires a proactive position on the part of the employer, specific guidelines and policy from the human resources department, and the consistent response from managers and supervisors with respect to employee romances (Davis 2000). Organizational leadership and especially human resources management leadership need to be trained in dealing with workplace romance (Pierce and Aguinis 2009). Today, it *has* to be manage-

ment's business to manage workplace romances.

II. Case Analysis

Two cases describing how a workplace romance might unfold are presented. The first case, titled "What Else Can Go Wrong," involves two management level employees and presents a feasible worst-case scenario. The second case, titled "Cupid Strikes" involves two peer-positioned entry-level employees and highlights possible outcomes in what may appear to be a very typical and harmless workplace romance.

III. Case Methodology

These hypothetical, teaching-type cases were developed from actual workplace romances cases using standard case methodology (Denzin and Lincoln 1994). Key data and events are taken from a variety of articles, news reports, and lawsuits; so although the organizations, people, and specific outcomes are fictional, the general circumstances and potential are very real. This approach is used to dramatically illustrate the potential human resource management issues associated with workplace romances.

A. Case One: "What Else Can Go Wrong?"

Ray Norville is the Trust Department Director of the Anytown Bank and has held this position for four years. Mr. Norville is 36 years old, married, and has three children ranging in age from 8 to 13 years old. Ray is well known in the small community of Anytown. A significant portion of the bank's business can be indirectly traced to Ray and his community involvement in such activities as Rotary Club, PTA, and his work and membership in the community's largest church.

Kelly Cosby has recently been appointed as the Assistant Human Resources Director of the bank. Miss Cosby is 26 years old, single, and in her first management position, which includes keeping the employment records on all bank employees and applicants.

Six months ago, Ray and Kelly found themselves working on a committee planning the bank's annual Christmas party. The two hit it off immediately and subsequently have found themselves repeatedly at the local No Tell Motel where *pillow talk* was often about their mutual employer and other employees. The bank has no expressed or implied policy on employee romance or employee dating.

The CFO of Anytown Bank, Walter Bettigar, directly supervises both the Trust and Human Resources Departments at the bank. Mr. Bettigar, along with almost everyone in the bank, is aware of the growing relationship between his two subordinates but chooses to not say anything to Ray or Kelly due to his perception of privacy issues and his view that the relationship hasn't affected work performance.

Coincidentally, Ray is in the process of hiring a new office administrator for the trust department; and Kelly has kept him informed on the status of all applicants including information on their race, medical history, age, marital status, credit history, and other attributes.

After a few months, the romance between the two starts to show signs of strain for various reasons including that Kelly wants to get married, but Ray already is married. The newly hired office administrator, Dianne Howard, is well aware of the evolving relationship between Ray and Kelly and has been asked to cover for Ray during some of his trysts. Ray and Kelly breakup, as perhaps could have been predicted; and the real fireworks begin almost immediately.

Outcomes include the following:

- Kelly Cosby sues Ray Norville for \$10 million for sexual harassment
- Kelly also sues the Anytown Bank for \$10 million for sexual harassment because it should have known about the relationship and did nothing to protect her
- Kelly sends a poison-pen letter to each unsuccessful applicant for the Office Administrators job documenting that Ray knew of confidential applicant information he was not allowed to have to get back at Ray and the bank
- Consequently, six unsuccessful applicants for the administrative assistant position sue the bank for a total of \$185 million for employment discrimination based on age, sex, race, disability, and marital status
- Dianne Howard, the person hired as the Office Administrator, sues Ray and the bank for \$5 million for sexual harassment, which her lawyer describes as hostile environment
- Ray's wife, Amanda Lynn, sues Kelly and the bank for \$5 million each for alienation of affection
- One of the bank's largest customers, Import Prosperity, moves its accounts to a competing bank expressing concerns about unethical activities at Anytown Bank
- Several local citizens also move their personal and business accounts.

B. Case Two: "Cupid Strikes"

Andy Irwin recently graduated from college and has been hired as a full-time salesperson at Intercounty Motors, a new and used car dealership. Andy is 22, single, and like many new labor force entrants, would spend more time on his

social life if work didn't occupy 60-plus hours a week. Rita Webster also works full time for Intercounty Motors as a purchaser and inventory clerk for the shop and parts department. Rita is also 22, single, a two-year college graduate, and lives with her parents.

Not surprisingly, Andy and Rita have occasional contact with each other; but neither has official duties that require that contact. Over several weeks these unofficial contacts led to lunch dates and a growing attraction between the two. Soon, Rita and Andy are increasingly found in each other's company during the day and are often heard on the phone with each other; and the dealership grapevine is discussing their torrid email. No official complaints are made about the quality of their work, although some employees are beginning to grumble about their lack of attention to work because of their frequent non-work-related contact, although specific consequences cannot be documented. Andy is becoming a top salesperson, and management openly acknowledges his leadership abilities and potential within the organization. Other employees are (perhaps jealously) discussing his status as a rising star in the firm and how his rise may have subsidiary benefits for Rita.

Intercounty Motors has no employee dating policy, and company policies deal with little more than traditional items such as pay, vacations, and the use of company cars. No one has openly complained to management about the budding romance, and it is obvious that the relationship is consensual in every respect.

Nevertheless, the owner of Intercounty Motors, David Miller, is aware of the workplace romance and is concerned. Mr. Miller believes that the seeds of potential productivity loss are being sown and that no action on his part means eventual lost productivity from both employees; but he

is also worried about the perceptions of other employees about the romance and his non-response to the romance. Mr. Miller doesn't want to over-react to this so-far harmless workplace romance, but he also wants to take pre-emptive action and define a workplace romance policy at Intercounty Motors.

IV. Discussion

To discuss the cases, we return to our question regarding the outcomes of workplace romances. In the "What Else Can Go Wrong" case, we see the potential aftermath of a workplace romance gone very wrong. The end result—lawsuits from several sources and the loss of public confidence—can be catastrophic for even fairly large businesses and possibly fatal for a smaller one. The second case "Cupid Strikes" shows that even a small business with a handful of employees can be affected by workplace romance.

A. Costs Associated with Workplace Romances

Although legal liability is the most obvious potential consequence when considering the costs of workplace romances, management should not overlook other costs. These costs, as seen in the second case, include the possibility of lower productivity or at least the perception of lower productivity; lower job satisfaction by other co-workers along with lower morale and organizational commitment; increased turnover if one of the involved employees leaves if the workplace romance fails; and the cost of managers' and supervisors' time in dealing with or worrying about the workplace romance. Costs such as lower productivity and or morale do not just occur with the employees involved in the romance but with other employees as

well. Workplace romances may result in lost time, productivity, and distraction for employees as they discuss and gossip about the romance, and this spreads through the grapevine. An organization's image and public relations can clearly be negatively impacted by workplace romances especially if these romances involve interns and or married executives or managers. Such costs, although difficult to calculate, can be significant; and in the Anytown Bank case, resulted in \$220 million in direct lawsuits, plus other costs related to losing some of its client base.

B. Workplace Romances and Confidential Information

A critical issue, and one that must be addressed in workplace romance and other policies, is the improper sharing of confidential or proprietary information. Information sharing can be disastrous for the firm creating problems that extend beyond the individual parties directly involved and even including otherwise unknown third parties. As evident in the first case, inappropriate sharing of confidential, privileged, or proprietary information by parties involved in a romance, or any parties for that matter, about job openings or the hiring process can result in liability from current employees and job applicants. Even without sharing of inappropriate information, the rumor mill, as in the second case, is still rife, and the damage is still real even if undeserved.

C. Workplace Romances and Other Stakeholders

Stakeholders' view of an organization and/or its employees or leaders can be affected by workplace romances. The very public cases involving government interns of a few years ago heightened perceptions of the unacceptable nature of manager/executive-intern romances. Further, with romances

involving customers and/or suppliers, the possibilities exist regarding favoritism or the appearance of favoritism, sharing of proprietary information, or even inappropriate price or cost adjustments or agreements benefiting one party or the other. In the first case Anytown Bank lost clients and other business because of apparent unprofessionalism on the part of two bank employees and may even be forced to close. In the second case other employees at the dealership were affected to some degree by the romance or at least the resultant behaviors of Andy and Rita.

D. Potential Legal Liability and Workplace Romances

The first case highlights the extensive financial and legal liability that can result from the fallout from a single failed workplace romance. Legal actions resulting from workplace romances can include (among others) claims of sexual harassment, wrongful discharge, invasion of privacy, and alienation of affection. One essential reason to develop a workplace romance policy is to limit an organization's legal liability. The policy itself may be ineffectual in curtailing workplace romances, yet management has a responsibility to make every effort to safeguard both employees and the firm from negative consequences. A workplace romance policy, for example, that specifically documents that involved employees have acknowledged that the relationship is mutual and consensual significantly limits subsequent sexual harassment liability. Sexual harassment law can be used to provide guidelines and language in regulating behavior after the romance ends (Clarke 2006).

Another particularly sensitive issue is termination of one or both employees involved in a workplace romance. It may seem logical that the subordinate leaves the organization; however, such an approach can

result in discrimination against women and minorities who are more likely to be in lower-level positions. The same discriminatory effect may be perceived by the lower-level employee in a consensual hierarchical relationship who is moved to another department or supervisor (Amaral 2006). As well, an explicit policy expecting one of the participants to leave the organization also more or less guarantees that voluntary disclosure of the workplace romance will not happen, thus defeating the purpose of disclosure document in terms of liability issues. Again, terminating employees or even attempting to prohibit workplace romances may negatively impact an organization's effectiveness (Pierce and Aguinis 2003).

V. Developing a Workplace Romance Policy and Related Processes

Many corporations fear claims of sexual harassment or retribution when workplace romances end badly; however, voluntary or involuntary turnover, lower productivity and morale can be just as difficult and costly. With experienced productive employees often costing a premium, employers are faced with a dilemma. No business wants to intrude on an employee's personal life, but some sort of policy on workplace relationships is now clearly necessary. The U.S.A. is a litigious society, so having a well-written policy and clear procedures for taking action in attempting to manage workplace romance may mitigate some legal consequences. The behavior of the employer can range from no action, which means ignoring the workplace romance and hoping for the best, remedial action including social support or counseling, to punitive action including another range of disciplinary measures (Foley and Powell 1999). Although writing and enforcing such a policy may be difficult, problematic, and perhaps awkward, not having or enforcing

such a policy may be even more expensive, awkward, and embarrassing. Of course, creation of rules or policy also requires the firm to find the resources and establish systems to enforce the policy (Amaral 2006).

A. Prohibiting Employee Dating

Most companies will admit that they are not able to regulate love or workplace romance. The sensible and pragmatic view must be that workplace romances cannot be effectively prohibited, but the resultant behavior can be *managed* through policy and managerial training. To create policies and rules that prescribe consequences for violations of workplace romance policies is relatively easy, but no rule or policy can prevent people from being attracted to one another or from falling in love. Strict rules requiring zero tolerance and mandatory termination likely result in employees' opting for secrecy or a "don't tell" approach, which likely results in management eventually dealing with the more serious and complex issues related to negative outcomes of workplace romances that have ended badly (Schaefer, Tudor, and Thomas 2001). A basic policy choice is whether the employer is willing to terminate employees because they engage in a workplace romance. If the labor market is tight, this absolute approach can be especially costly (Schaefer et al. 2001), and there needs to be a better way of managing the issue so that valuable employees are not discarded. Prohibiting employee dating is too simplistic and does not serve the best interests of either the employee or the employer.

B. Workplace Romance Contracts

As a part of a workplace romance policy, some organizations have tried to manage the romantic workplace with *love contracts* or *dating contracts* (Schaefer et al. 2001).

Love contracts are often used in hierarchical or supervisor-subordinate workplace romances. A love contract is a legal document in which the organization and the employees involved acknowledge the romance. The contract also recognizes the continued professional and personal relationships, and the employees involved further state that the relationship is mutual and consensual and is not in violation of the organization's sexual harassment policies. As a result the organization's liability is significantly limited or even eliminated (Schaefer et al. 2001) and thus is a defensive weapon for the firm if a subsequent sexual harassment suit is filed (Amaral 2006). The challenge with love contracts is that employees may consider their dating or romantic life as absolutely not the company's business and thus refuse to even acknowledge their relationship. Further, this approach may be effective in some situations, but over-all it falls short of being the best solution because these contracts tend to be an after-the-fact approach to workplace romance and ignore the need for management training or related policy. Best practice may include love contracts but needs to be pro-active not reactive; so the contracts alone are not sufficient. Examples of love contracts can be found at www.workforce.com.

C. Developing Workplace Romance Policies

To limit the likelihood of dealing with the negative outcomes of workplace romances, companies need to establish a clear workplace romance policy (Schaefer et al. 2001). The logical place to start is to acknowledge that employers cannot control whether employees become romantically involved in the workplace and to establish basic ground rules for behavior by employees involved in the romance. Employers thus give up trying to control what they cannot control.

This acknowledgement seems to be a major roadblock for many employers, yet most employees would likely agree that some expectation for proper workplace behavior for employees should be established by management (Amaral 2006).

The easier issue of just what should be included in a workplace romance policy can now be addressed, and Table 1 delineates the key issues and components that should be considered in a workplace romance policy.

A number of resources are available to assist practitioners in drafting and/or evaluating a workplace romance policy. Most generic HR texts and Legal Handbooks (Delpo 2000, for example)—provide information and language regarding employee confidentiality, establishing basic applicant's rights, employee personnel records, and guidelines on sexual harassment, and all of these issues can be confounded by workplace romance. Also software packages are available that help businesses write and maintain policy manuals, although again workplace romance was not specifically found in any software examined. Nevertheless, policies on related issues such as sexual harassment, preventing workplace violence, ethics, conflict of interest, and record confidentiality are relevant as the foundation of a workplace romance policy. Academic journal articles also provide guidance (for example see Coil and Rice, 1995; Pierce and Aguinis 2009; Schaefer, et al. 2001; Wilson, Filosa, and Fennel 2003). Common sense suggests that no single sample policy will be perfect for any given company, although sample policies found on the Internet may offer further guidance and support. As a final step in the development of a workplace romance policy, all policies should be reviewed by legal counsel that specializes in human resource management law.

Table 1
Key Issues and Sections to be Considered
in A Workplace Romance Policy

ISSUE AND OR SECTION	COMMENTS
1. Acknowledgement of workplace as perhaps the most common meeting place for people who become romantically attached.	Provide context for the policy by acknowledging that romances often begin by people knowing each other in the workplace.
2. Acknowledgement of organization's obligation to many stakeholders, some with differing needs or expectations.	Note that the organization does have an obligation to protect employees, managers, owners, customers, and the work environment from potential harmful effects that may result from romantic and or intimate relationships.
3. Identify all of the various types of workplace romances.	As previously noted, name the types of workplace romances, e.g., hierarchical or peer.
4. Describe expected action to occur when a workplace romance begins.	Be as specific as possible about the obligation of the individuals involved in the romance to report the romance and be clear about their supervisors'/managers' responsibilities.
5. Explain the potential organizational actions that can occur in response to a workplace romance.	State the potential actions that can occur, as examples: one employee may be asked to leave the organization; or in the instance of a hierarchical romance, one employee may not directly report to the other.
6. Emphasize the responsibility to maintain confidentiality and privacy.	It is important to emphasize the organizations and the individual's responsibility to maintain confidentiality, privacy, and security related to the organization's business, transactions, and processes.
7. Define sexual behavior in the workplace.	Identify what behavior is not acceptable in the workplace and the consequences for engaging in unacceptable behavior.
8. Specify the consequences for failing to report a workplace romance (if that is required by the policy).	Reporting may limit the organization's liability, and lack of notification may result in the termination of an employee.
9. Identify links to other policies.	Workplace romance policies may overlap with policies on sexual harassment, privacy and confidentiality, and grievances.

Any workplace romance policy, regardless of how benign, will be seen by some employees as heavy handed and essentially viewed as corporate interference with the very personal lives of the firm's employees, and therefore inappropriate. Indeed, individual romantic interests are obviously none of the firm's business. However, almost all organizational policies, including a workplace romance policy, serve the purpose of safeguarding corporate interests. And even though a workplace romance policy has no interest in constraining the romantic life of employees, some perceptual if not real overlap seems likely. The purpose of a workplace romance policy is not only to protect the company but also to protect company employees, and is, therefore, a responsible undertaking. The purpose of the policy is concerned with the employee behaviors and actions resulting from the workplace attraction, not the merits of the attraction itself.

However, personal romantic relationships do have the potential to interfere with work, can create conflicts of interest, can cause dissension among co-workers, can create real or perceived favoritism resulting in a negative work environment, and therefore management has every right and little choice but to take precautionary steps. The policy should address and regulate displays of affection or other sexually related behavior while at work, and at the same time be clear that it is not attempting to regulate the feelings or attraction of employees. Management clearly has a right to regulate behavior in the workplace and this includes romantic or sexual behavior. Workplace romance policies are not anti-marriage or anti-romance but are an attempt to improve the workplace by reducing illegal or improper conflicts of interest, favoritism, and protecting the firm and the employees from potential claims of sexual harassment (Wilson et al. 2003).

D. Workplace Romance Policies and Organizational Size

Workplace romance policies should consider organizational size and culture (Schaefer et al. 2001), confirming again that one size fits all does not work with this type of policy. Having 2 employees out of 25 involved in a workplace romance is one thing; whereas, having two romantically involved employees out of 250 or 2,500 is another. The ability to physically separate or transfer employees to another department or to move employees involved in a workplace romance is much more limited in smaller organizations. In small businesses employees often cover several responsibilities, so issues of confidentiality and privacy may be exacerbated in smaller organizations.

E. Workplace Romance Policies and Lateral Versus Hierarchical Workplace Romances

Hierarchical workplace romance, like other workplace romances, cannot be banned; they will happen. Unlike peer workplace romance relationships, however, the supervisor, manager, or executive involved in the romance holds a position of influence and authority, possibly over the subordinate member in the relationship; and this power dynamic results in different and more dangerous issues for the organization. In developing a romance policy, management should specifically address the distinction between hierarchical- and peer-relationships, and related issues. At a minimum, in order to protect itself, the organization should require a quicker or immediate notification of the start of romances involving hierarchical relationships preferably from both parties. The policy, along with requiring a signed dating contract, should also specifically list the supervisor's, manager's, or executive's additional responsibilities in situations such as not doing performance

evaluations of their partner or excusing him or herself from promotion discussions that may involve his or her romantic partner.

These policies will aid in the management of the behavior related to ongoing workplace romances but are still not sufficient company protection if the romance fails. Sexual harassment law can be used here to both suggest proper employee conduct and company policy after the romance ends (Clarke 2006). Consequences for non-compliance may have to be stricter as well, including transfer or even termination as a last resort. Counseling for employees involved in a workplace romance regarding appropriate behavior or coping with the guidelines may form a large part of post workplace romance policy, and this is typically seen as most fair by the involved employees and their co-workers (Karl and Sutton 2000). Generally, the rules or regulated behaviors used to fight sexual harassment are often unwieldy and too broadly applied (Rabin-Margalioth 2006), so a sensitive hand is required again suggesting managerial training. Regardless of the subtleties, however, it seems obvious that having a working workplace romance policy in place is the best protection for the firm and the employee (Kiser et al. 2006).

F. Workplace Romance Policies and Sexual Behavior in the Workplace

Workplace romance policies should address sexual behavior in the work place (Meyer 1998). This is perhaps the easiest and most obvious part of the workplace romance policy to write but perhaps the most difficult to monitor and control. Workplace romances may result in the involved employees wanting to be together constantly—both virtually and face-to-face. Excessive use of email and telephone for the two employees can be costly for the employer in terms of lost productivity, and

with the ease of computer-mediated communication may even result in a sexual harassment complaint from a third-party who inadvertently witnesses improper electronic communication, just as with real-time behavior. The same attributes of email that are effective for workplace communication are also useful in maintaining and even facilitating a workplace romance and are very difficult for management to monitor and control (Hovick, Meyers, and Timmerman 2003). Standards for use of office equipment for personal communication, especially intimate communication, should be specifically addressed in the policy.

Public displays of affection can easily be addressed in the policy. Again, the company is not banning the feelings of affection but is attempting to control the public displays of these feelings for the protection of the firm and all stakeholders. Policy alone is not sufficient. The policy needs to be clearly distributed and explained throughout the organization through employee handbooks, postings on the site, and through training sessions or seminars (Kiser et al. 2006).

G. Workplace Romance Policies and Link to Sexual Harassment Policy

Sexual harassment and sexual harassment claims by workplace romance participants, or co-workers, or third parties, are viewed as the most common potential negative outcome of workplace romances (Greenwald 2000). The policy, at a minimum, should include a process for the employees involved in the romance to acknowledge in writing (as in a dating contract) that the romance is mutual and consensual in nature and does not involve sexual harassment. Compulsory compliance with this part of the policy should be seriously considered, especially in a hierarchical relationship, with serious con-

sequences for non-compliance. This will generally protect the organization from subsequent claims related to sexual harassment or at least protect the organization until the romance ends. If the ending of the relationship is not mutual, then harassment can occur if one person continues to pursue the relationship against the other person's wishes. Management should closely monitor such situations, and advising or counseling for employees once the relationship ends could be included as part of the dating contract.

H. Workplace Romance Policies and Link to Confidentiality and Privacy Policies

Workplace romance policies should address the issue of inappropriate sharing of confidential information between the workplace romance partners. Talk among employees from different departments and/or areas of the company can easily result in breach of confidentiality with negative consequences for the company. Forbidding such behavior is no guarantee that it won't happen anyway but provides some protection for the firm and documents an employee breach of contract if it happens anyway. Most workplace romance policies should include a section dealing with employee romances with customers and or suppliers because of issues related to confidential and or proprietary information. Again, although specifically outlining appropriate employee behavior, the benefit is that discipline guidelines are established if the policy is not followed.

I. Training Managers and Supervisors Regarding Workplace Romances

Kiser et al. (2006) note that although a well-written policy helps in the management of workplace romances, having a policy without organizational support and applied

resources is not enough. Organizations should also proactively train employees and supervisors regarding workplace romances and ensure that all employees, but especially supervisors and managers, understand the organization's policies and how to respond to workplace romances. Managers and employees both need to understand the workplace behaviors that can be an offshoot of workplace romance. Different types of training may be required for managers and employees—with employee training focused on the policies and appropriate behavior in the workplace and the reasons for the policies, and managerial training focused on appropriate responses and procedures when the policies are ignored or not followed properly. Many organizations provide orientation and or annual training on sexual harassment in part to mitigate potential exposure if lawsuits do occur. It is wise to provide workplace romance policy training for all employees, including those who are married, making sure that equal protection for marital status laws are not violated.

Managers should understand the employee morale, productivity, and legal risks of workplace romances. Managers should have some assistance in recognizing the signs of a workplace romance, which may include the increasing frequency of having lunch or taking breaks together or longer and more frequent talking together without any obvious work-related need to do so. Other signs may be when both persons are late on the same day or leaving early or being absent on the same day. Being seen together away from work may be a clue as is showing favoritism toward the other or defending the other in the workplace (Levesque 1992). One further complication may be in trying to define just when a casual friendship and spending time together becomes a workplace romance, and this is a nuance that policy likely cannot adequately

address and remains an employee responsibility to report this shift in status.

It is important that office romance training is mandatory, similar to training related to sexual harassment, diversity awareness, and ethical behavior. Orientation for new employees is the best time to set the organizational tone regarding workplace romances, but new policy requires new training or orientation for all employees. A review of the organization's workplace romance policy can easily be distributed with a signed acknowledgement of receipt, and employees should understand reporting requirements and potential consequences.

VI. Conclusion

Managers can no longer afford to ignore workplace romances. The potential consequences for the company are simply too costly. This paper identifies many proactive responses to the issue. Managers should not be placed in the position of having to say "if only I had . . ." In an era of global competition, corporate success or failure may come down to obtaining a few more percentage points of productivity from each employee, and unmonitored, problematic workplace romances can perhaps cause the loss of these precious productivity points. Corporate success may also depend on managers being fully focused on core competencies and not distracted by the need to deal with workplace romance problems. Sexual harassment lawsuits, although a minor issue in terms of actual lawsuits, can still be a huge time loss and expense issue if brought forward. More significantly, however, lost productivity from favoritism and gossip, lowered morale, new privacy regulations, and even workplace violence have also been connected with workplace romances that have gone wrong.

The fact that many workplace romances turn out positively for the participants and the

company is no longer a reason for managers to ignore workplace romances. Environmental macro forces also suggest that prior practice or lack of policy regarding workplace romance is no longer sufficient as many organizations are expecting employees to do more with less; so hours spent on the job are increasing in many organizations, and the worksite doubles as a social site even if management never intended it to be so.

Organizations need to be viewed by all stakeholders including the public as being ethical. Bad publicity, whether from the purchase of a \$6,000 shower curtain, a corporate social retreat to Las Vegas, or a sex story caused by a failed workplace romance will be detrimental to any organization. Prevention is the key.

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