

PRESENTATION

What's



Got to Do With It

Presented by:

David E. Gevertz

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

dgevertz@bakerdonelson.com

BAKER DONELSON

EXPAND YOUR EXPECTATIONS™

Love By The Numbers . . .

- A 2011 Vault.com survey showed that 59% of respondents said they had participated in an office romance
- 26% of those who had engaged in an office romance said they had dated a subordinate

Love By The Numbers . . .

- 38% of those who engaged in an office romance said they felt a co-worker gained a professional advantage because of a romantic relationship with a co-worker or superior

Love By The Numbers . . .

- 37% said they had to keep their relationship secret
- 31% said they felt uncomfortable at work because of co-workers office romances

Love By The Numbers . . .

- 31% of the people who had dated co-workers said their office romance ended in marriage

What lights the match?

- 13% ran into a co-worker outside of work
- 12% met at happy hour
- 11% met at lunch
- 10% met working late nights

*When Cupid Drops In
At Your Office*

Legal Risks

- Sexual Harassment
- Intentional Infliction of Emotional Distress
- Assault and Battery
- Slander/Libel
- Sexual Favoritism
- Sex Stereotyping

eHarmony = disharmony

- Lost productivity
- Loss of credibility
- Divided loyalties
- Breach of confidentiality
- Conflicts of interest
- Unprofessionalism

Rumors and Gossip

Options For Reducing Risks

- Develop a policy on personal romantic relationships and distribute to all employees
- Develop HR guidelines for responding to personal romantic relationships between all levels of employees
- Provide training to managers/employees on the practical realities of being romantically involved with someone at work and show your door is open if they have a concern about unwanted romantic attention

Policy Considerations

1. Assess state laws (off-duty conduct, privacy etc.)
2. Address company rules about dating between peers and subordinates and decision-making process if such a relationship is revealed/discovered.
3. If dating is permitted, address duty to notify management.
4. Address expectations for appropriate behavior during workplace relationship and expectations for conduct if relationship ends
5. Address prohibitions against favoritism, conflict of interest, discrimination, harassment, and retaliation.

HR Guidelines

1. Is the relationship consensual or not? If not, handle pursuant to typical investigation and resolution structure.
2. If consensual, does it violate company policy?
3. Does the relationship have potential negative intangible consequences for the Company?
 - Embarrassment
 - Conflict of Interest/confidentiality concerns
 - Disruptive in the workplace

HR Guidelines (continued)

5. Consider your right to hold management and particularly senior manager to higher standards of business and personal conduct. (Check state law)
6. Do you want to take proactive steps to try to prevent legal or practical problems as a result of the relationship?
7. Or, do you want to sit and wait for the phone to ring . . .

Proactive Steps

1. Meet with each individual and confirm the relationship is consensual.
2. Advise each person if that changes, you expect to be notified immediately.
3. Reminder about professional conduct at work.
4. Consider a “love contract.”

Love Contract

- They confirm relationship is voluntary and consensual.
- They agree to abide by employer's discrimination, harassment, retaliation, and workplace policies.
- They promise to report any perceived harassment/retaliation to HR.
- They agree to behave professionally and not let relationship interfere with work.
- They agree to avoid behavior that could offend others in the workplace and not to engage in favoritism.

Don't Forget About Typical Role Reversal or Same-Sex Relationships

**Be open to employees
who may have concerns
about favoritism or an
expectation that dating is
the only way to advance
their career.**

Be Prepared to Address Both Potential Legal Risks and Practical Realities of the Workplace Romance.