

# Workplace Romance Is on the Rise

SHRM | Susan Milligan | June 7, 2022

Even amid the growth of remote and hybrid work, intimate relationships among co-workers are increasing. So it's essential for HR leaders to have a policy in place.

A married executive insisted the subordinate he was romantically involved with would voluntarily leave the company so they could be together. She didn't agree with those terms; he ended up out of a job. When a couple at another company broke up, the man didn't take it well and showed up at work with weapons to convince his ex-girlfriend to go with him. Another couple who worked together thought the parking area was a good place for a sexual romp. They didn't know about the security cameras.

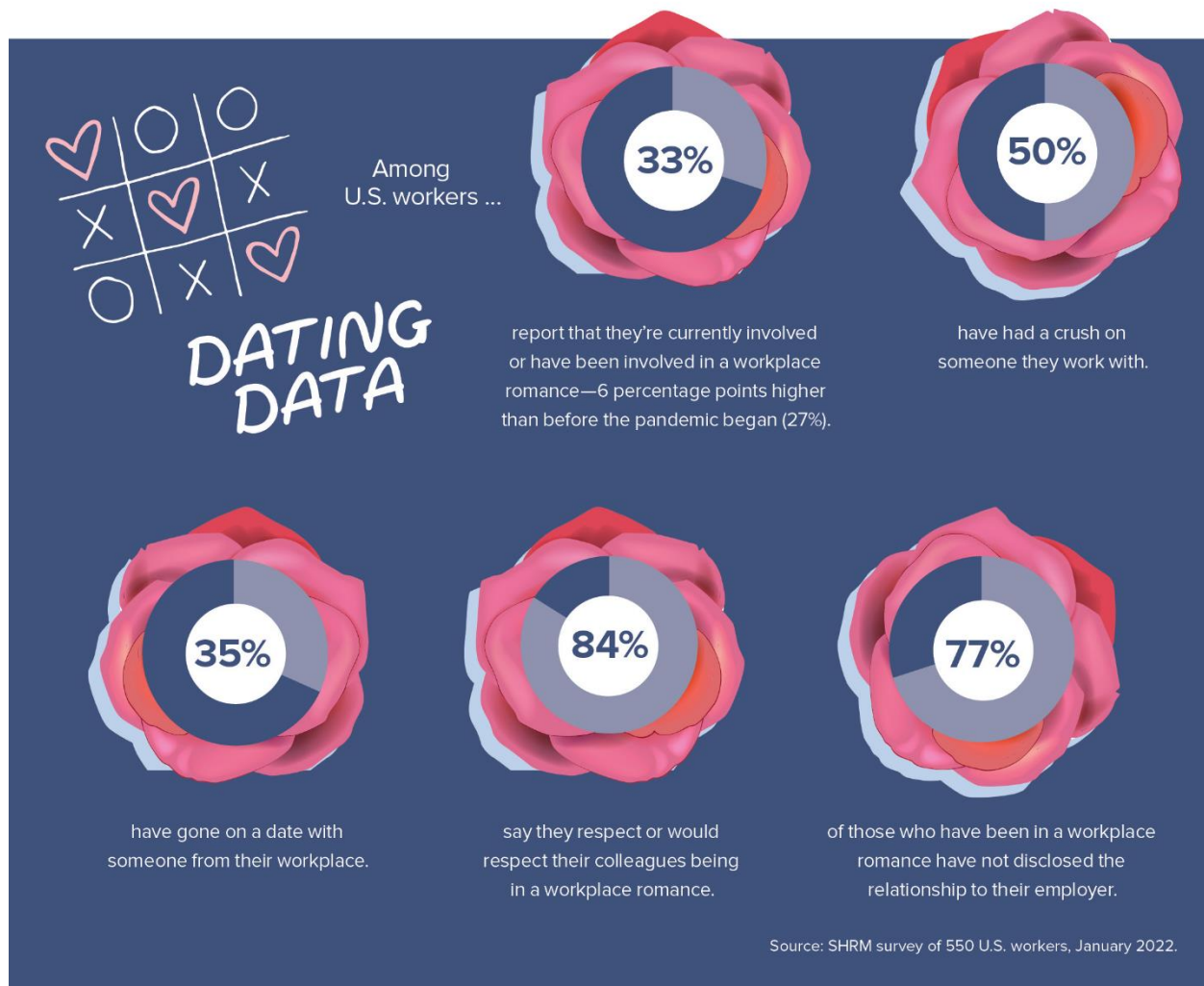
Ain't love grand?

Well, not so much if you're in human resources and must deal with those real-life examples described by HR managers. While people do meet on the job and even sometimes end up marrying those whom they get to know in a workplace environment, such relationships are fraught with potential problems. HR specialists say navigating workplace romance is among their toughest assignments. That's because the issue involves weighing fairness against people's right to privacy and the possibility of legal liability for the company if things go awry.

"With the #MeToo movement, you're getting into some very scary ground" if one employee is alleging harassment or pressure from another employee seeking an unwanted relationship, especially if the pursuer is a supervisor, says Jeff Luttrell, SHRM-SCP, global vice president of executive talent at Atento, a Madrid-based customer relationship management firm with 150,000 employees worldwide. "It's a really difficult topic, one I think HR people struggle with on an almost daily basis."

Indeed, Society for Human Resource Management (SHRM) research shows something unexpected: Even as more workers went remote, the number of workplace romances rose during the pandemic. One-third of U.S. employees are currently involved or have been romantically involved with a co-worker, up from the 27 percent who reported workplace romances before the public health crisis began. So this is a good time for HR leaders to revisit their company policies on workplace romance, experts say, especially since many of those policies are lacking.

"Employers are not doing a good job with this," says Joanne Lipman, author of the bestseller *That's What She Said: What Men Need to Know (and Women Need to Tell Them) About Working Together* (William Morrow, 2018). "Half of people don't even know what their employer's policy is."



## A Practical Approach

Many HR specialists agree that trying to prohibit workplace romances doesn't make sense. "Banning all romances is not terribly realistic. People will find a way," says attorney Julie A. Moore, SHRM-SCP, president of the Wellesley, Mass.-based HR consulting firm Employment Practices Group.

Draconian policies will either drive relationships underground or make people look elsewhere for employment, experts say.

"Do they really want to lose talent?" Moore asks. "In this day and age, talent is scarce."

And these are just the types of issues that arise when the feelings are mutual.

Occasionally, romantic relationships in the workplace can lead to difficult or even dangerous situations. Luttrell wished office romances were forbidden after encountering a particularly scary incident at a call center job he had some years ago. A male employee who was upset when his female co-worker broke off their relationship showed up at work with weapons "basically to take her away," Luttrell recalls.

"The police had to come. Of course, the gentleman was terminated immediately, and he was prosecuted," Luttrell says. "It kind of put [workplace relationships] in a different perspective for me."

The company provided the female employee with time off and help through its employee assistance program.

"We spend more waking time with the people we work with than anyone else, which is why we have to get along with the people we work with," says HR consultant Chad Sorenson, SHRM-SCP. "Sometimes that turns into romances with the people we work with"—like the couple inadvertently captured on parking lot security cameras that Sorenson had to deal with in an earlier HR job. But "when things turn south ... or one person wants the relationship [to continue] and the other one doesn't, you could be talking about harassment."



It's a tricky position for HR because relationships are not always clear-cut, people aren't always forthcoming, and solutions need to be designed so they don't undermine company credibility or employee morale.

And because of harassment concerns, "we've gotten so careful about these office romances," Lipman says. "I think it has unintentionally demonized what is perfectly normal human behavior."

The SHRM study, in fact, found that three-fourths of employees say they're comfortable with their colleagues being romantically involved.

Sometimes office romances are life-changing in a good way, with couples finding their spouses at work. Think Barack and Michelle Obama, who met and began a relationship while they were working at the same law firm. But there are so many other ways love can go wrong—whether it's a relationship that ends in heartache or a manager involved with a subordinate. The latter raises problems not just for claims of harassment, but also for office morale, if people think someone is getting favorable treatment because they're sleeping with the boss, experts say.

That's why HR professionals and employment attorneys agree that except in very rare cases (such as between married couples in a family-owned company), relationships between managers and their direct reports should not be permitted. And in many cases, relationships between executives and any subordinate should not be allowed, even if they don't work in the same division.

## **Do's and Don'ts for HR**

Workplace relationships are a delicate matter for HR, which needs to protect the company from liability while allowing employees to pursue their own love interests. Some tips from HR managers and legal specialists:

DO have a formal policy, and make sure employees are aware of it. It can be included in the employee handbook, onboarding sessions, sexual-harassment training or—ideally—all three.

DO tailor your policy to the office culture (a family-owned business might have looser rules than a large, hierarchical company, for example), but always require disclosure to HR of a romantic relationship.

DO encourage open communication so relationships aren't driven underground.

DO document everything, whether it's a formal acknowledgment of a relationship or evidence in company communications of a relationship. If a relationship goes sour and someone alleges harassment, your lawyer will thank you.

DO consider a "love contract" that formally acknowledges the relationship and terms of office behavior. It can protect the company but also make people more reluctant to disclose, if it means putting it in writing.

DON'T try to ban intra-office romances. It's unrealistic—people do meet at work—and it will just lead to lying and deception.

DON'T permit relationships between a supervisor and a direct report, and consider whether peers should be working on the same team if they are romantically involved. Members of a couple should not have direct impact on each other's work.

DON'T permit hand-holding or other obvious public displays of affection at the office. —S.M.

## **Rules of Engagement**

When two colleagues become romantically involved, the ideal situation includes the couple voluntarily reporting the relationship to HR, followed by HR moving one or both individuals to another position in the company if there is a subordinate/manager situation or another potential conflict. It doesn't always work so smoothly—especially when the rules aren't clear.

In a previous job at a law firm, Moore was asked to figure out how to navigate the relationship between a romantically involved partner and associate. The duo devised what they considered a reasonable plan for their relationship, but the firm ultimately asked both to leave, Moore says, because it couldn't satisfy the couple's individual requests and didn't want to pick between them to resolve management's concerns.

Joanne Lee, SHRM-SCP, vice president of human resources at New Castle, Del.-based beverage distributor N.K.S. Distributors, was in HR at a previous company where the married male CEO got involved with a female subordinate but said it wouldn't be a problem because she was prepared to leave.

Except that wasn't what the subordinate said in a private meeting with HR. "It all got very ugly," Lee says. "He just got himself into a web." In the end, the CEO was going to be terminated, so he pre-emptively resigned.

Leesa Schipani, SHRM-SCP, a partner at Glastonbury, Conn.-based HR consulting firm KardasLarson LLC, is not unsympathetic to those who meet romantic partners on the job. (After all, she met her own husband at work and voluntarily resigned to avoid a conflict of interest.) In her experience, however, workplace romances can sometimes create problems, and a satisfactory solution can't always be reached.

At one company, Schipani was presented with a situation where the regional vice president was involved with a woman who reported to him. "We talked to them and said, 'One of you either needs to move to a different area or leave the company,'" Schipani says. The woman ended up leaving, with the company doing "everything we could" to help with her job search, she adds.

But in another case, a subordinate was involved with a supervisor—one was married—and the two would not-so-coincidentally end up in the same place, and same hotel, during business trips paid for by the company.

"It turned out to be really messy," Schipani says. "They thought they were being discreet." The pair had lost so much credibility in the organization that both were terminated.



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### **Standards and Practices**

What rules should HR impose? It depends on the company culture and size. Diane Dooley, CHRO at World Insurance in Edison, N.J., is in the process of writing a handbook that will apply to all of the organizations the company acquires, including those that are small and have family members already working together.

In those companies, "we will have nepotism," Dooley says, adding that at the very least, people will have to disclose their relationships.

Some businesses get very detailed about what employees can and cannot do when pursuing romantic relationships.

Meta (the company formerly known as Facebook) doesn't prohibit office romances. But its employee handbook dictates that a worker can't ask out a colleague twice if the first invitation didn't result in a date. Further, Meta's policy says workers can't ask out colleagues they have never met. That means employees can't contact a co-worker whose profile picture they find attractive to ask for a date.

Such rules can prevent a lot of problems down the road, attorneys and HR managers say, but only if they're accepted and followed by staff, who might be resentful of rules they consider to be infringing on their personal lives.

When companies have very strict policies, “it causes people to keep it secret,” says Matt Carter, a Texas-based attorney with the business set-up firm Inc and Go. “Encourage openness. Not having those strict rules is paradoxically one of the best ways to avoid the situation” of couples conducting clandestine affairs.

### **Proceed with Caution**

Even though HR managers and lawyers tout the value of rules requiring the disclosure of relationships, such disclosure is rare. According to the SHRM survey, 77 percent of U.S. workers said their employers do not require them to disclose an office romance. An equal percentage said they have not told their employers when they have been involved in an office relationship.

And the definition of “relationship” is squishy. When is a relationship a relationship and not a random hookup that both parties would like to forget? What if one party sees the interaction as a relationship and the other sees it as more casual?

Plus, sometimes people have good reason not to let HR know what’s going on, says Sean Horan, a Fairfield University communications professor who is conducting a study on workplace romances. “What if someone is LGBTQ and doesn’t want their boss to know?” he asks. “What about cheating husbands or wives? What if they’re in a consensually nonmonogamous relationship?” Some people might not want to share information of this nature with friends, never mind someone at their company, Horan says.

In those cases, experts recommend HR be especially discreet to protect employees’ privacy and help them feel comfortable about reporting their relationship.

Failure to disclose can often result in termination, regardless of the person’s status at the company. CNN Worldwide President Jeff Zucker resigned in early 2022 after acknowledging he had not disclosed—as was required—a relationship with Executive Vice President and Chief Marketing Officer Allison Gollust.

Another potential problem is equal treatment of two employees in a romantic relationship. For example, a company that most commonly asks women to move to another post or leave the organization could be subject to a discrimination suit, legal experts warn.

“If you don’t require a male in a relationship to move but require the female to move—even if arguably to an equal position—someone could still make a claim that the position is not as favorable,” says Peter Cassat, a Washington, D.C.-based labor and employment attorney at Culhane Meadows.

### **Love Contracts**

HR specialists are divided on so-called love contracts, wherein employees sign a document stating they’re in a consensual relationship and perhaps agree to certain standards of behavior around the office.

The agreements are helpful because “they show the origination of the relationship was indeed consensual,” says Vanessa Matsis-McCready, associate general counsel and director of human

resources at Fort Lauderdale, Fla.-based Engage PEO, which provides HR services and benefits to small and midsize businesses. This protects the company if one party tries to claim they never wanted the relationship.

"But it doesn't mean you're never going to get a harassment claim out of it," Matsis-McCready adds. "It's possible one person might say they were coerced into signing the agreement." And some people might be more reluctant to sign a formal declaration, especially if they are married or identify as LGBTQ.

Mariel Smith, a partner and labor and employment lawyer at Hall Booth Smith P.C. in Columbus, Ga., says formal contracts can get "a little more heavy-handed than I think they should be." However, when contracts do exist, they should state the date the relationship began, she says, so the company is somewhat protected if the relationship ends badly and someone makes a harassment allegation.

### **Same-Sex Relationships May Require Special Discretion**

Asking employees to disclose a romantic relationship is a common requirement for companies that have policies on workplace romances. But what about members of the LGBTQ community who may not want people at work to know about their sexual orientation?

It's a thorny issue for HR, and many experts agree that it's wrong to out people who want to keep their sexual orientation or gender identity private. But legally, HR can't have different rules for LGBTQ employees than it does for employees who do not identify as LGBTQ.

"You've got to walk a fine line. You can't really come out and ask someone, 'Are you gay?' or 'Are you in a relationship with Steve?' " says business attorney Matt Carter, who is gay. Carter says when he came out in the early 21st century, it wasn't a big deal at his workplace and he felt accepted.

But that's not the case for all LGBTQ employees.

A landmark 2020 Supreme Court case, *Bostock v. Clayton County*, held that gay, lesbian and transgender individuals are protected against workplace discrimination under Title VII of the Civil Rights Act of 1964. But Title VII applies only to companies with 15 or more employees. And it doesn't stop LGBTQ individuals from being subject to judgment or disdain from fellow workers.

A September 2021 study by UCLA School of Law's Williams Institute found that 46 percent of LGBTQ workers experienced some kind of unfair treatment at work at some point in their lives, and 1 in 10 had experienced discrimination at work in the previous year.

So what can HR do? Hold LGBTQ workers to the same standards and rules that all employees must follow, experts advise. But do so with the utmost discretion, says Sean Horan, a faculty member at Fairfield University who researches communication in dating relationships.

There are strict structures in place for other information, such as health information under the Health Insurance Portability and Accountability Act (HIPAA), Horan notes. And while there may

be no HIPAA-like law protecting disclosure of someone's LGBTQ identity, it's just the decent thing to do, he says. —S.M.

## **Digital Documentation**

Love contract or no love contract, employers need to document everything, lawyers say. Many companies have a policy that allows management to view e-mails and Slack messages written by employees, which means companies can often discover a relationship by going to their own databases. And many businesses consider searching company computers and phones to be fair game.

Paul Lopez, a labor and employment attorney with the South Florida-based firm Tripp Scott, recalls a case where a couple at a workplace—a supervisor and a subordinate—broke up, and afterward one party said the relationship was coerced from the start. However, upon further review, “there were hundreds of text messages, and it was crystal clear it was a consensual relationship,” Lopez says.

Moore says she's currently working on a case where a central factor is the question of when a relationship began, and e-mails and texts are revealing. “It's amazing what you learn by going through e-mail, Slack and text messages,” she says.

A workplace romance can also come to light as a byproduct of a separate inquiry. Cassat recalls a case in which a manager was accused of discrimination against someone in his department. It was a serious allegation, Cassat says, one that required investigators to examine company e-mails.

“We learned he was having a relationship with another manager in the company,” Cassat says, and would joke with her about having “company meetings” at his condo across the street that were not actually business meetings. Both parties ultimately were terminated.

The bottom line is that people are going to form romantic relationships at work, Carter says, and there's nothing HR can do about it. The message to employees, he maintains, should be, “We're not going to regulate your personal lives. But if you're having a relationship with someone in the office, we would like to know about it. That's to protect you—and to protect us, frankly.”