



Office Romances And 'Love Contracts'

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By Barbara Reeves Neal

Office romances are exciting and fun — for a while. The couple is smitten, stealing meaningful glances across a conference table. Fellow employees catch on to the romance and enjoy the gossip. After a while, employees in close proximity of one or both of the lovebirds may feel that unfair advantages are being bestowed by one lover upon the other, to the detriment of some other employee. If the romance turns sour, there is even more gossip that can sometimes lead to a harassment lawsuit filed against the company.

Enter the "love contract." Originally known as a "consensual relationship agreement," the purpose of a love contract was to confirm that the relationship was consensual, and that the parties were aware of the employer's policies against sexual harassment. It also served to define improper behavior in the workplace and to protect the involved employees from retaliation in the event of a less-than-happy termination of the romance, and the employer from lawsuits by a lovebird turned lovelorn.

What Is a 'Love Contract'?

Understanding love contracts begins with identifying the problems they are designed to address. A consenting romantic or sexual relationship between two employees, and especially between a manager/supervisor and an employee, may lead to complications, difficulties and legal problems for all concerned — the employees, the manager/supervisor and the company. In hindsight, it may be clear that the relationship was not in the best interest of one or both employees and was contrary to the best interest of the company.

Years ago, it was not uncommon for companies to have and to enforce non-fraternization policies as needed. Such a policy would discourage or prohibit employees, or at least employees within the same workgroup or in a manager/subordinate situation, from dating or engaging in any conduct likely to lead to a romantic or sexual relationship. Violation of a non-fraternization policy would be cause for discipline or termination. However, some states have laws that were interpreted to invalidate non-fraternization policies as invading an employee's right to privacy or right to associate during non-working hours.

There are also less intrusive ways to solve the same potential problems that give rise to love contracts. An early mediation approach led by a neutral third-party mediator can work quickly to resolve issues developing from personal relationships in the workplace, in the most private of circumstances. This can restore the productivity of the workplace most efficiently for the benefit of all parties. Even where a love contract has been signed and sealed, a mediation approach at the first signs of a potential problem can address and resolve the issues before they even give rise to enforcement of the love contract.

For companies that seek the protection of a love contract, a clear and specific "fraternization" or "consensual relationship" policy should be included in the employee manual. A typical policy might include the following points:

- A statement that romantic or sexual relationships between employees may be contrary to the best interests of the company.
- A statement that the company discourages/strongly discourages such relationships.
- Recognition that relationships may nonetheless develop.
- A requirement that if a romantic or sexual relationship develops, the employees must disclose the relationship to a supervisor/manager/executive/HR representative, and an acknowledgment that the relationship may then be reported to higher ups with a "need to know" so that appropriate steps can be taken with respect to work assignments.
- A requirement that the involved employees sign a "love contract/consensual relationship agreement" confirming that the relationship is consensual, that each party is aware of the company's sexual harassment policy, fraternization policy and any other relevant policies, agreeing to adhere to such company policies, agreeing to behave professionally at work and agreeing to notify a supervisor if the relationship terminates or becomes non-consensual.
- A requirement that any third party who is aware of such a relationship and who believes that he or she is or may be adversely affected by or discriminated against as a result of the relationship should notify a supervisor/manager/HR representative of the issue.
- A hotline number to call in the event an employee feels constrained to speak to the designated management personnel.

- A procedure for meeting with an independent mediator to discuss the relationship and its actual or potential impact on the employees and the company, preferably before problems develop, in order to provide counsel to all concerned.

In the best of all possible worlds, every employee involved in a romantic relationship at work would follow the policies, disclose the relationship and sign a love contract. The employees are protected from retaliation in the event that the relationship sours, and the company is protected from lawsuits for harassment.

In the real world, the only people who may come forward to sign their love contract will be those whose relationships may never have been a problem: young heterosexual singles who are comfortable going public with their relationship and who truly hope that it will progress happily until whatever. For those involved in extramarital affairs, or with someone of significantly different age or employment level, or in a same-sex relationship, public disclosure may be the last thing they want. Or one party may want to disclose, but the other party may coerce him/her into remaining silent. (And let's face it, love contracts can appear pretty heavy handed, a big brother approach to monitoring the most basic and private human emotions.) How can the company protect itself from litigation when employees refuse to play by the rules, without invoking love police to enforce love contracts?

Solving the Problem

One answer is to increase training and awareness. Supplement the employee manual policies with training for all employees in sexual harassment, fraternization policies and concerns and the availability of protections in the form of love contracts, HR representatives, hotline reporting and counseling and an independent mediator. Employees should review the policies annually and sign an acknowledgment that they are familiar with the policies and that they will comply. Supervisors and managers should be provided with additional training on how to respond when they suspect a romantic or sexual relationship is simmering along in their area of responsibility. If the employees are fully briefed on the company's policies, they are empowered to take steps when a romantic or sexual relationship causes problems. They are also estopped to argue that they were unaware of their options or that the company is responsible for the adverse results arising from the relationship.

In summary, love contracts offer some protection for companies by serving to raise awareness on the pitfalls of workplace romance and the protections that are available. However, the effectiveness of an early mediation approach in avoiding legal disputes surrounding workplace romance issues can be the most beneficial approach for employee and employer alike in restoring productivity and harmony in the work environment.

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