

Ethical Analysis of Office Romance and Sexual Favoritism Policies in the #MeToo Workplace and “Cancel Culture” Era

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Abstract

While most employers, managers, and employees have heard and read much about the #MeToo movement, little academic attention has been devoted to ethical analysis of office romance and sexual favoritism policies in the modern workplace. Everyone is likely to agree that romantic relationships will continue in the workplace regardless of organizational policies; nevertheless appropriate, policies should be in place to protect against any adverse legal consequences stemming from romantic relationships in the workplace; and these policies also should be promulgated and enforced in such a manner that all workplace policies and actions can be considered moral and ethical. Accordingly, in this article, we provide a thorough ethical analysis of office romance and sexual favoritism in the sensitive era of the #MeToo movement as well as the “canceled culture” era. We offer specific recommendations to management and human resources professionals on how to provide a safe and healthy work environment for all employees, how to avoid liability for sexual harassment cases as they relate to Title VII of the Civil Rights Act, as well as how to ensure that the workplace is fair and just for all.

We conclude that every company’s management and human resources departments should take full responsibility for ensuring that business decisions, especially those affecting the employees, are aligned with legal, moral, and, of course, ethical norms. First and foremost, appropriate policies, programs, procedures, and training are necessary to combat sexual discrimination and harassment and thus to ensure a fair, just, and functional workplace. We believe that prevention is the best means of proactively eliminating sexual harassment in the workplace. Each firm should include a clear and strong policy statement against sexual harassment and discrimination in their code of conduct expectations. The policy should have direct statement of the intolerance and prohibition of any form of sexual harassment and illegal discrimination. Each firms should also have an effective policy distribution, communication to employees and enforcement plan. Finally, retaliation must be avoided. As such, there should be assurances that complaining employees will be protected from harassment or retaliation.

Keywords: office romance, love contracts, sexual favoritism, #MeToo movement, ethical egoism, ethical relativism, utilitarianism, Kantian ethics.

JEL Classification: F10.



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Introduction

In the modern sensitive era of the #MeToo movement, a “canceled culture” simply refers to a form of shunning or public exclusion in which someone is pushed out of cliques, as well as social and/or professional circles, through asynchronous online publications on social media, in the day-to-day workplace, or both. Those who are subject to such consistent forms of ostracism, bullying, workplace mobbing, or harassment due to specific inappropriate behaviors or politically incorrect statements are said to be “canceled” (Middlemiss, 2019; Syaebani & Rachmawati, 2017; Mujtaba and Senathip, 2020; Cavico and Mujtaba, 2017; Scovell, 2009; Gomes, Owens, & Morgan, 2006). Of course, managers and employers must make sure that all employees and customers are treated fairly to have a healthy workplace for all and to avoid any unnecessary lawsuits.

The era of the #MeToo movement has brought forth increased national attention to sexual assault, abuse, misconduct, unethical behaviors, discrimination, and harassment in the workplace, especially by prominent men against subordinate female employees. See Table 1 for a sample of cases during the #MeToo movement. Consequently, many of these high-ranking executives and their organizations have become subjects of the “canceled culture”. Sadly, it has been reported that 42% of females have experienced some form of sexual discrimination and harassment at work (Kreis, 2020, p. 149). As such, important objectives of the #MeToo and “cancel culture” movements are to encourage women to come forward and disclose sexual discrimination and harassment, to punish wrongdoers and to deter future misconduct, and to promote a safe, healthy, respectful, and productive work environment for all. Many of the high-profile sexual cases that generated the #MeToo movement involved high level and powerful male executives asserting that their romantic relationships with subordinate females in the workplace were “merely” consensual office romance and sexual favoritism. Because of the #MeToo movement and “canceled culture,” employers have been obligated to create proper policies on how to proactively and reactively respond to sexual discrimination, sexual harassment, office romance, and sexual favoritism in the modern workplace.

Table 1. Sample Case of the #MeToo Movement

Roger Ailes in USA	Roger Ailes, the former CEO Fox, resigned in disgrace amid charges of sexual harassment. A former Fox host Gretchen Carlson filed a sexual harassment lawsuit against Ailes. It was reported that many other women had contacted Carlson’s attorneys too for similar charges against Ailes. Megyn Kelly, host of <i>The Kelly File</i> on Fox News, also told attorneys investigating Carlson’s claims that Ailes had made unwanted sexual advances toward her as well.
Harvey Weinstein in USA	Federal prosecutors in New York began investigating allegations of sexual abuse against Harvey Weinstein, who was a popular movie mogul in Hollywood. The federal investigation looked into Weinstein enticing young women for the purpose of sexually and forcibly assaulting them against their will. He was found guilty of sexual assault.
Zhu Jun in China	Zhou Xiaoxuan, in 2018, accused the prominent television host Zhu Jun of groping and forcibly kissing her when she was an intern at the state broadcaster CCTV. While the victim is nervous, Zhou has mentioned, “whether we win or lose the case, it has meaning. If we lose, it allows the questions we raised at least to remain in history. Someone will have to give us an answer.”

Source: compiled by authors.

In its simplest view, *workplace romance* is basically a relationship between two employees working in the same department or organization where sexual attraction is present and a personal relationship develops among them that is more than just professional. *Sexual favoritism* is when an employee receives preferential treatment due to his/her relationship with someone in a higher position of authority or rank within the department or organization (Middlemiss, 2019). Cases of workplace romance and sexual favoritism has been increasing over the past few decades in the modern workplace. In 2001, the Society for Human Resource Management (SHRM) survey showed that about 37% of respondents were involved in workplace romance. Then, in 2009, the same survey showed that workplace romance increased to 40% (Syaebani & Rachmawati, 2017).

Workplace romance can be defined as “a relationship between two members of the same organization that is perceived by a third party to be characterized by sexual attraction” (Quinn, 1977, p. 30). Of course, such a relationship is often consensual and thus not to be confused with sexual harassment. As more and more women have become more integrated in the modern workplace of all industries in the United States and most other

developed economies, the number of workplace romances have gone up as well. As mentioned by one study, about 58% of employees have engaged in some form of a romantic relationship at work; and, 72% mentioned that they would do it again (Careers, 2019). Of course, workplace romances fall into the category of *lateral romances*, where both participants share the same status in the organization, or hierarchical romances where one of the participants holds more power in the organization than the other, thereby creating a potentially dangerous power imbalance (Scovell, 2009; Gomes, Owens, & Morgan, 2006). While most romantic involvements build stronger bonds and relationships among those involved, the category of *hierarchical romances* can at times lead to sexual harassment and favoritism problems in the workplace. Sexual favoritism is when a hierarchical romantic relationship leads to “decisions, actions, or benefits that unfavorably affect the opportunities of other employees” (Gomes, Owen and Morgan, 2006). We know that sexual favoritism can create a hostile work environment for victim and other employees that are not receiving the favorable treatment in the workplace. Workplace romances turn in to sexual favoritism when promotions, raises, and other opportunities are offered to the sexual partner but not offered to other individuals in the workplace who are just as qualified. This favoritism can expose the company to various lawsuits, particularly discrimination and harassment claims. Experts have recognized sexual favoritism as a form of unlawful and unethical discrimination based on gender, which can be illegal in the United States based on federal and/or state laws.

It should be noted that at the beginning most workplace romances tend to be exciting for the couple involved as they look forward to coming to work and being next to someone that they are highly attracted to in the organization. However, one should note that any relationship can come with various problems and headaches, such as distractions, office gossip, clouded judgment on departmental decisions, cases of confidentiality issues, resentment from other employees, and inappropriate workplace behaviors. Furthermore, workplace romance enhances the risk of bias or preferential treatment toward one’s partner, which can lead to grievances or claims of workplace harassment. Managers and organizations should take into consideration both the legal consequences of sexual harassment and retaliation claims under Title VII of the Civil Rights Act of 1964 (Noe *et al.*, 2021, p.116). There are at least two possible results of a romance in the workplace that should be reflected upon. First, the relationship might breakup to the dissatisfaction of one partner who develops animosity and aggression toward the other, thereby leading to incidents of harassment. The company can be held accountable for not protecting everyone against harassment. Second, if the relationship is between an employee and manager, then the subordinate employee or his/her colleagues might initiate a lawsuit for real or perceived cases of sexual harassment or even preferential treatment arising from the relationship (Boyd, 2010).

Some managers tend to neglect the issue of workplace romance as they are not familiar with their organization’s policies or they simply do not want to interfere with their employees’ personal relationships (Syaebani & Rachmawati, 2017). However, when symptoms of the negative consequences do arise, the damage might be irreversible to the relationship or possible lawsuits. Research has shown that about 72% of organizations do not have relevant policies regarding workplace romance (Syaebani & Rachmawati, 2017). As such, workplace romance or sexual favoritism can result in lower productivity, increased employee turnover, and/or increased harassment cases if proper action is not taken in a timely manner.

Accordingly, this article analyzes the topics of sexual favoritism and office romance from ethical perspectives in order to determine the morality of certain workplace policies and conduct. Four ethical theories are applied to make moral conclusions: Ethical Egoism, Ethical Relativism, Utilitarianism, and Kantian ethics. Then, based on the ethical analysis, the authors make recommendations for management, first, generally, to avoid lawsuits for sexual harassment and discrimination and to curtail sexual favoritism, and then specifically regarding appropriate office romance policies and procedures. The goal is to create a workplace that is safe, healthy, fair, ethical, and just for all employees.

Literature review

Equality and fairness, diversity and sensitivity, and policies and practices regarding sexuality in the workplace have been the subject of many research articles, as the problem, particularly regarding sexual harassment and discrimination, continues to negatively impact people across the globe (Senyucel and Phillpott, 2011; Mujtaba,

2013). One example of isolated sexual favoritism is the federal district court case of *Crisanto v. Cnty. Tulare* (2015), where the plaintiff, a female, and a lead psychologist for a government agency, contended that her immediate supervisor discriminated against her by favoring another female employee, his wife. Specifically, the plaintiff complained that her supervisor allowed his wife to routinely escape job discipline for her work indiscretions that would cause discipline for other employees who were not engaged in a marital, romantic, or sexual relationship. Moreover, the plaintiff alleged that her supervisor gave preferential treatment to his wife regarding job compensation, assignments, and benefits. However, the court ruled that there were insufficient facts to show that the supervisor by his preferential treatment of his wife “sexualized” the workplace. There may have been sexual favoritism, but it was neither severe nor pervasive and thus did not alter the conditions in the workplace; rather, here, the favoritism was just directed to one person, the supervisor’s wife; and there was no evidence as to any sexual conduct being directed to the plaintiff or any other employees; and, moreover, there was no evidence of any inappropriate touching or displays of affection in the workplace. Accordingly, there was neither a pattern of bias based on sexual availability nor one that was widespread enough to rise to the level of hostile work environment based on sexual conduct; and thus the plaintiff’s lawsuit was dismissed (*Crisanto v. Cnty. Tulare*, 2015). The preceding cases well illustrated the legal general rule; however, there are important exceptions.

Coercion and Power Imbalances

An important exception to the general rule of no liability for sexual favoritism arises when a female employee is coerced into submitting to unwelcome sexual advances in return for a position, promotion, or other job benefit; the submission aspect of the relationship renders the conduct unlawful and thus a cause of action exists not only for the victimized employee but for other employees who were qualified but were denied the employment opportunity or benefit (*Doyle v. Advanced Fraud Sols., LLC*, 2020 *Stewart v. SBE Entm’t Grp., LLC*, 2017). In such a case, other employees who were qualified but were denied the job benefit may be able to demonstrate that sex was generally made as a condition for receiving the job benefit (Pearce and Lipin, 2015). That is, according to the EEOC, a woman would need to establish that in order to obtain the job benefit, it would have been necessary to grant sexual favors, which is a condition that would not have been imposed on men (EEOC, *Policy Guidance*, 1990). The EEOC views the aforementioned situation as constituting a traditional case of *quid pro quo* (sex-for-job) sexual harassment (EEOC, *Policy Guidance*, 1990). The EEOC explains that even if a manager or supervisor was interested in just one female, and thus coerced only her, other women, as well as men, who were denied the benefit would be able to claim legally impermissible discrimination because they were harmed as a result of the sexual harassment inflicted on the woman who was coerced (EEOC, *Policy Guidance*, 1990). The EEOC provides an example of a “coercion” case, to wit: A female employee contends she lost a promotion for which she was qualified because another woman, a co-worker, who obtained the promotion was engaged in a sexual relationship with their supervisor. However, the sexual relationship was not consensual; rather, the supervisor regularly harassed the co-worker, demanded sex as a condition for the promotion, and then he audibly boasted about his “conquest.” In such a situation, the EEOC maintains that the female employee who lost the promotion may be able to establish a Title VII violation by demonstrating that in order to obtain the promotion, it would have been necessary for her to grant sexual favors. Moreover, the EEOC submits that in addition she and other qualified male and female co-workers would have standing to challenge the favoritism on the basis that they were harmed because of the discrimination against the female co-worker who did not get the promotion (EEOC, *Policy Statement*, 1990).

Consent vs. coercion are the principal elements to this exception (Green, 2019, p. 117). An intriguing situation arises in a case of supposed consensual sex between a manager or supervisor and a subordinate employee, especially if the former is male and the latter is a female. Are such hierarchical workplace romances truly voluntary and consensual?

Byun (2014) asserts that due to the “power dynamic” involved in a superior-subordinate relationship in the workplace, “...hierarchical workplace romances can be more troublesome and threatening than lateral romances” (p. 274). As such, Byun (2014) explains that “(e)mloyees will experience subtle pressure to participate or at least acquiesce to such behavior, whether they like it or not, when the pressure is coming from the boss. This is more

troublesome for women who work in a male-dominated environment” (pp. 274-75). Srinivasan (2020) asserts that the consent might be “subtly coerced,” even without the party’s knowing (p. 1138). Consequently, Green (2019) admonishes that if the potential relationship is between an executive at a high-level in the corporate hierarchy, the “power differentials are too insurmountable” (p. 159). Therefore, “(i)n light of the power differentials and the public exposure via #MeToo, it is always prudent for employers to establish policies that encourage an executive to refuse to even take the risk of making an overture to see if there can be a consensual relationship with a subordinate” (Green, 2019, p. 159).

Houseman (2019) reports on studies that show that if there is a gender imbalance at work, that is, for example, the executives are mainly male and the administrative assistants mainly female, then sexual harassment may occur at a higher rate (p. 287). Actual or perceived retaliation is another means to vitiate consent. Green (2019) explains: “In considering the harm from potential retaliatory blackballing, subordinates who choose to respond to executives’ overtures in ways that limit the potential for retaliation are not really consenting. Those limited subordinate responses, however, could lead executives to believe that the subordinate has consented” (p. 128). Green (2019) adds that “(w)hile it may be that a response of ‘no means no’ in terms of the romantic or sexual encounter, the subordinate can never be certain that a no does not also mean tremendously adverse career consequences” (p. 163). While the *quid pro quo* exception deals primarily with the relationship of the respective parties, another exception arises if the sexual relationships and sexual favoritism at work are widespread and regularly occurring.

Hostile Sexual Environment

Another important legal exception occurs when office romance and sexual favoritism in the workplace create a hostile work environment, which is a form of sexual harassment. Consequently, if favoritism based on the granting of sexual favors is viewed as widespread in the workplace, female employees, as well as male employees, who do not welcome such conduct can sue on a hostile environment sexual harassment theory, regardless of whether any of the objectionable sexual conduct is directed at them and regardless of whether the sexual favors granted were voluntary and consensual (EEOC, *Policy Statement*, 1990; Leong, 2019; Cavico, Mujtaba, Petrescu, and Muffler, 2015). In such a situation, according to the EEOC, “...a message is conveyed that the managers view women as ‘sexual playthings,’ thereby creating an atmosphere that is demeaning to women” (EEOC, *Policy Statement*, 1990, p. 4). Moreover, both men and women can sue pursuant to the hostile environment as well as under the *quid pro quo* doctrine if they find such sexual conduct offensive and it is sufficiently severe and pervasive so as to create an abusive working environment (EEOC, *Policy Statement*, 1990).

In determining whether a work environment is “hostile” the EEOC uses a “totality of the circumstances” test, whereby on a case-by-case basis using an objective standard of the hypothetical “reasonable person” in the context in which the alleged conduct occurred. Certain factors that the EEOC says should be considered are as follows: the number of incidents of favoritism, the egregiousness of the conduct, and whether other employees in the workplace were aware of the conduct (EEOC, *Policy Statement*, 1990).

Overall, one legal line is clearly between sexual conduct that is coerced as opposed to consensual. Another line is the one between isolated as opposed to widespread sexual favoritism. The cases indicate that for there to be a finding of a hostile sexual environment the romantic relationships and preferential conduct must be severe or egregious and pervasive or generalized, particularly conduct between a manager or supervisor and a subordinate employee. Pearce and Lipin (2015) thus conclude that “...because of the difficulties inherent in providing these types of evidence, plaintiffs usually fail to prove the existence of a hostile work environment” (p. 334). Accordingly, an employer is allowed on an “isolated” basis to show favoritism and to bestow special benefits or grant preferential treatment to an employee based on a consensual love interest or an office romance relationship. Nevertheless, sexual favoritism, specifically, as well as sexual harassment and discrimination generally, are naturally caused by and complicated - legally, morally, and practically - by romance in the workplace.

Romance and Favoritism

For an employer, legal as well as practical problems certainly are exacerbated by office romance and any resulting sexual favoritism, which unfortunately can lead to sexual harassment and/or discrimination. People at work spend a great deal of time together, they have similar interests, and they get to know each other very well; and the more familiar they are with each other the greater the likelihood of the co-workers being attracted to one another and thus to become romantically involved (Gallo, 2019). A 2017 Gallup poll revealed that 70% of the workers surveyed said they had a “meaningful relationship” at work (Kreis, 2020, p. 183). Similarly, Byun (2014) reports that one-third of romantic relationships may begin in the workplace (p. 259, note 1). These workplace relationships may be “deeply meaningful connections, such as in the case of having a “work spouse,” which describes a close relationship which is “equality-reinforcing and of mutual benefit” (Kreis, 2020, p. 183). Positive benefits certainly can ensue from such a relationship, such as reducing stress and turnover, improving engagement and performance, and promoting productivity (Kreis, 2020). However, these close friendship bonds can quickly turn into workplace sexual and romantic relationships, and for employees of varying sexual orientations too, and these relationships can engender sexual favoritism in the workplace, which can result in sexual harassment and sexual discrimination. Consequently, as Kreis (2020) emphasizes that “mixing pleasure with business can be a dangerous situation. Close friendships in professional settings can also cause conflict...” as well as engender “hurt feelings, anger, and envy,” thereby resulting in adverse employment conduct, including illegal conduct (p. 184).

Office romance can certainly pose other major problems for employers, particularly if office romance causes sexual favoritism in the workplace. Office romances can have a negative “spillover effect” on co-workers. An example by Shellenbarger (2010, p. D1) is the experience of two co-workers who commenced dating. Initially they were considered to be equals on the job, with each other and their co-workers; but when the two started to go out to lunch regularly, their co-workers felt “excluded,” which created “a lot of negativity.” Office romance can also engender conflicts-of-interest as other employees may claim sexual favoritism if they feel they were not treated fairly because of a manager’s preference to his or her romantic partner. Another problem with office romance is the potential for “messy breakups,” perhaps resulting in allegations of sexual harassment and discrimination lawsuits.

A study conducted in 2006 by the Society for Human Resource Professionals, indicated that 67% of the employees surveyed cited as a significant problem the possibility of retaliation by “spurned or disappointed lovers,” which percentage was up from 12% in 2001 (Shellenbarger, 2010, pp. D1, D2). Since fear is high with the sensitive issues of sexual favoritism and romance in the workplace, Senyucel and Phillpott (2011, p. 707) suggest the usage of a learning and effectiveness model in dealing with sexual issues, including sexual orientation and other such diversity elements (see Figure 1). As such, to create more clarity and provide an equitable work environment by the promulgation and regulation of rational policies that are scrutinized from diverse paradigms, we recommend a thorough analysis of office romance and sexual favoritism through several major ethical theories and practices.

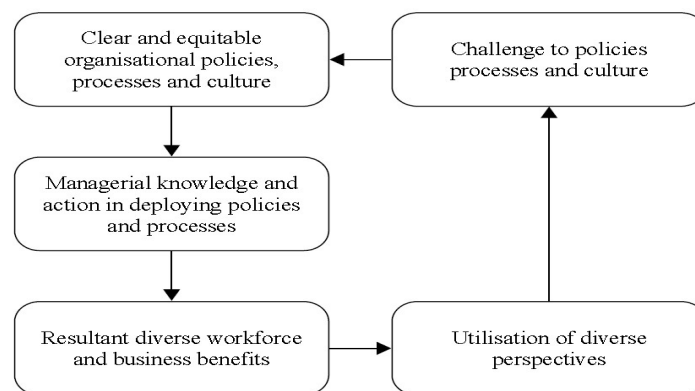


Figure 1. Learning and Effectiveness Approach Model

Source: Senyucel and Phillpott (2011, p. 707).

Allowing office romance means more interpersonal relations between co-workers in the workplace, and thus likely more romantic relationships and as a result perhaps more sexual favoritism, which can cause legal as well as ethical and practical problems for the employer. Yet, even if dating in the workplace among employees is permitted and any resulting sexual favoritism occurs, it is generally legal. Nonetheless the ethical questions remain as to the morality of office romance and sexual favoritism, which brings us into the realm of philosophical ethics.

Ethical analysis

An analysis of the current state of the law regarding sexual favoritism in the workplace in the context of office romance indicates that there are shortcomings in the ability of the legal system to address sexual favoritism and regulate office romance in the workplace. Accordingly, the question arises as to what is the moral course of conduct for an employer to take? Such an inquiry perforce takes one into the realm of ethics, which is a branch of philosophy. We will discuss and then apply the four major, secular, reasoned-based ethical theories in Western Civilization – Ethical Egoism, Ethical Relativism, Utilitarianism, and Kantian ethics. – in order to make some moral determinations regarding office romance and any attendant sexual favoritism. The first ethical theory to be discussed is Ethical Egoism.

Ethical Egoism

Ethical Egoism is an ethical theory first propounded by the ancient Greeks, being originally attributed to the philosophic school of the Sophists in 5th century B.C., who were egoists and relativists in their thinking. The modern, relatively speaking, proponent of this ethical theory is the 18th century English economist Adam Smith. The basic tenet of ethical egoism maintains that it is moral to advance one's self-interest; and thus in a business context it is moral to make money. That is, an action that advances one's self-interest is a moral one; and, conversely, an action that is detrimental to one's self-interest is an immoral one. As *per* Adam Smith's rationale, if everyone seeks to advance their self-interest not only will they benefit but society and the general welfare will benefit too as there will be more efficient and effective production and distribution of goods and services. Yet there are some constraints on the doctrine. First, is to take long-term perspective as to maximizing one's self-interest, and thus be willing to undergo some short-term sacrifice, expense, and effort in order to maximize one's own long-term greater good. Second, generally, it is preferable to treat people well, to make them part of one's team, in essence, to co-op them. And why should one be so "nice"? Because it is in one's long-term self-interest to have friends and allies as opposed to enemies. So, Adam Smith asserted that one should be selfish in the egoistic sense, but do so in a smart, prudent, and rational manner. That is, be an enlightened ethical egoist, but advance oneself, learn useful knowledge and skills, and become wealthy and powerful. Ethical Egoism, therefore, and this should be appealing to the business students, defines morality as advancing one's self-interest; in essence, it is moral to make money (but, remember to take a long-term perspective as to maximizing your self-interest, and thus also be willing to undergo some short-term expense and effort, as well as to treat people well) (Cavico and Mujtaba, 2013).

Office romances certainly can present major problems and challenges for the affected employees and particularly for the ethically egoistic employer, especially when office romance results in sexual favoritism and sexual harassment. Kreis (2020) explains: "When office romances sour or illicit workplace relationships are discovered, those dynamics are problematic for corporate decision-makers, especially when they involve a supervisor and a subordinate employee. Under these circumstances, adverse employment consequences may fall on subordinate employees because supervisors are spurned lovers, resentful, or desperate to save another preexisting relationship or marriage" (p.188). Moreover, adverse consequences can also fall on the employer in the form of sexual harassment lawsuits if sexual relationships are coerced and/or the granting of sexual favors is widely expected to obtain promotions and other job benefits. Green (2019) underscores that "...corporations need to recognize that sexual harassers do incredible harm to their companies. Even a top-performing executive who harasses subordinates is not worth the harm to the employer's bottom line" (p. 147). Thus, an important consideration for management to ponder is whether the consent in a relationship between a manager or supervisor and subordinate employee is in fact genuine, due to the power imbalance in the relationship. For the ethically egoistic employer, therefore, the responsibility – morally as well as legally and practically – falls to ensure a fair, just, and functional

workplace. Particular attention must be paid to potential dating relationships between managers and supervisors and subordinate employees. The authors in the forthcoming “Recommendations” section to this article will also propose certain “egoistic” suggestions, first, generally, to combat sexual harassment and discrimination as well as sexual favoritism and second, specifically, to achieve fair and efficacious office romance policies. Ethical Egoism is obviously a narrowly based egoistic and “selfish” ethical doctrine; whereas the next ethical theory to be considered – Ethical Relativism – is a much broader societal-based ethical doctrine.

Ethical Relativism

“When in Rome, do as the Romans do.” Surely the students have heard of this famous statement, though perhaps not understanding its ethical implications. As such, that old saying is a good introduction to the ethical theory of Ethical Relativism, which theory harkens back before the Romans to a later group of the Sophists in ancient Greece. The key aspect of this ethical theory is that morality is determined by societal beliefs, mores, and precepts. That is, what a society believes is moral for that society is in fact moral for that society. Consequently, one does not need to be a philosopher to determine morality; rather, one needs “sharp” eyes-and-ears to discern what the moral standards are “on the ground” in a particular society. One “merely” must get educated as to the prevailing moral norms in the relevant society. Then one just must conform to and adopt those norms and one will be acting morally in that society. Naturally, one does not want to get educated the “hard way” by gratuitously and foolishly contravening some local societal moral norm; so the astute business person will always check with the appropriate local people “on the ground” in the pertinent society. Of course, two societies can disagree as to moral norms. As a result, a weakness of this ethical theory is that there is no arbitrating mechanism to say which society’s moral beliefs are objectively and absolutely true and correct. Yet they are true and correct for that society, so one should merely conform and adopt and be moral there and one should not be a “cultural imperialist” and consequently try to impose one’s society’s moral views on another. Another weakness of Ethical Relativism is trying to determine exactly what the critical component of “society” is. Now, such a determination may be a bit easier in a very homogenous society but certainly not a heterogeneous one (Cavico, Mujtaba, Petrescu, and Muffler, 2015; Cavico and Mujtaba, 2013). Consequently, in the business context herein, what is the relevant society – global business, U.S. business – as a whole or regionally, a particular industry, a particular company, a particular facility, division, department, or even a team of a company? As such, some companies in some locales may have in their discrete definitions of “society” a more “free-wheeling” “free-love” atmosphere regarding office romance among employees whereas other firms may be more strict, rigid, and prohibitive in their dating policies.

Generally, in the authors’ opinions, before the advent of the #MeToo movement office romance (so long as consensual, of course) had become less taboo; thus, the practice had been treated as more acceptable at certain companies, but certainly not all companies. Office romance has been “coming out of the closet,” and the workplace thus had become a “place for courtship.” In 2010, before the advent of the #MeToo movement, Shellenbarger (2010, p. D2) reported on a survey in which 67% of employees stated they had no need to hide their office relationships, which figure is up from 54% in 2005. In the past, Shellenbarger (2010) noted that Baby-Boomers kept their office romances secret, in part because of fears of career damage, reprisal, and sanctions, particularly since many employers had policies strictly forbidding office romances, at least between people in the same management hierarchy. Yet societal mores had been changing regarding office dating. There was more openness about dating, romance, and sex as well as more equality between the sexes. Nonetheless, it was then and most certainly now, still considered to be inappropriate for married employees to date other co-workers, as well as for dating co-workers to engage in displays of affection in the workplace. Even the most liberal employer would expect, and demand, that employees who are dating behave in a professional manner; and most employers also would say that it still would be considered inappropriate for a boss and a subordinate employee to date (Shellenbarger, 2010).

In order to get a sense for more recent, post-#MeToo, societal mores, Weiss (2019) noted the findings of several studies: “Public opinion seems solidly supportive of office romance: one survey found that only 4% believe that work relationships are wrong under all circumstances. Indeed, between a third and a half of respondents reported having had sexual or romantic involvement at work. Yet surveys also suggest that attraction and relationships between supervisor and subordinate can be problematic even when genuinely motivated by affection. These

relationships count for just under 10% of office relationships and are disproportionately dangerous...” (pp. 321-22). Moreover, “(p)ublic opinion is less approving of relationships between co-workers and subordinates, though only a minority (43%) feel that relationships between supervisors and subordinates are never appropriate” (Weiss, 2019, p. 322). Leong (2019) points to a 2012 survey that indicates that 64% of respondents believed that a supervisor should not be having sex with a subordinate employee (p. 954). Nevertheless, Weiss (2019) points to a survey that indicated that 22% of employees have dated someone who was their supervisor at the time (p. 322). Similarly, Leong (2019) reports on surveys from 2013 that indicated that 35.6% of respondents said that they have had sex with a subordinate and 15% saying that they had dated a supervisor (pp. 951-52). Yet, Weiss (2019) also reports on a 2017 Harris poll that found that 31% of employees surveyed who started dating at work eventually married (p. 322, note 111). Accordingly, if there is a too restrictive policy on office romance and such a prohibitive policy becomes widespread, then many people will find it difficult to embark on long-term relationships and to find marriage partners (Leong, 2019). Therefore, based on the admittedly anecdotal evidence and the authors’ own knowledge and experience it seems, generally, that pursuant to Ethical Relativism the prevailing societal moral norms would be to allow limited dating and office romance so long as conducted in a professional manner but to prohibit dating between a manager or supervisor and a subordinate employee. Yet what type of office romance policies achieve the “greater good,” so as to be moral under the next ethical theory – Utilitarianism.

Utilitarianism

Utilitarianism is an ethical theory created by the 18th English philosophers and social reformers - Jeremy Bentham and John Stuart Mill. The theory is a consequentialist ethical theory; that is, morality is determined by focusing in on all the stakeholders (also called “constituent groups) affected by the action. There is a predictive element to this ethical theory; that one must predict consequences as they affect each discrete stakeholder group, including society as a whole. Ethical Egoism is of course a consequentialist ethical theory too, but plainly with Utilitarianism the scope of analysis is much, much broader than merely oneself. Predicting the consequences of an action is obviously a challenging task, but the Utilitarians say, first, to use one’s “common storehouse of knowledge” and to use “history as a guide.” Second, one needs to look for probabilities of occurrences as well as the reasonably foreseeable consequences of putting an action into effect. Finally, one must attempt to measure and weight consequences, first, for each stakeholder group and then among all the stakeholders. Accordingly, if there are predominantly good consequences the action is a moral action; and conversely, if there are predominant negative consequences the action is an immoral one. The goal of the Utilitarians was to seek to promote happiness, satisfaction, pleasure, but note that since the “ends justify the means” there can be some painful consequences produced but overall since there is more good an action can be deemed moral. However, one problem with this theory is that the “ends can justify means”; that is, if there is more good than bad the action is moral even though there are some consequences that cause pain, suffering, and unhappiness consistently to a specific stakeholder group (Cavico and Mujtaba, 2013). Depending on the company and its office romance policies and the existence of sexual favoritism a plethora of consequences – good and bad – can emanate from those policies. As such, the authors will point out some of the reasonably foreseeable consequences, attempt to measure and weigh them, and thus decide where the “greater good” lies.

Initially, office romance can result in some *positive* consequences in the workplace, to wit: Office romance can enhance workplace “engagement,” that is, the desire and excitement to come to work, to care about one’s company, and to work diligently (Morgan, 2010). A positive effect of office romance is that it can lead to increased productivity for both participants. Furthermore, romantically involved co-workers typically spend more time at work, take fewer days off, and are less likely to be absent and to quit (Morgan, 2010). There also may be an increase in coordination, group-work, and teamwork, as well as creativity and dynamism. The possibility of finding a romantic partner at work should naturally make the work environment an enjoyable, even exciting, one. The romantically involved co-workers may be more motivated to come to work, and to work. Interaction and communication at work certainly should be increased. Leong (2019) submits that workplace romance creates a more exciting workplace as well as more energized work and team groups, enhances communication and cooperation, stimulates creativity, and thus produces a “happier work environment” (p. 983). Therefore, some

companies, such as National Public Radio, Princeton Review, Pixar, and Southwest Airlines, encourage office romance among employees (Morgan, 2010).

However, office romance can also result in *negative* consequences for employers, co-workers, and the romantically involved employees. Initially it is important to note that a great deal of these positive consequences potentially emanating from office romance assume that the romantic co-workers, as well as their colleagues for that matter, will be open, mature, and professional about the relationship. Yet dating among co-workers may be disruptive to the work environment, both during the dating period but particularly during any breakup. Office romance can adversely affect the productivity of the workers romantically involved as well as the morale and productivity of their co-workers. If the dating co-workers are now having a difficult time with their romantic relationship, this “lover’s quarrel” may intrude on the workplace, consequently making their co-workers feel uncomfortable and less productive (Cavico, Mujtaba, and Samuels, 2012). Unwanted sexual advances and conduct can adversely affect the victim’s ability to do his or her job. Moreover, if such conduct is pervasive other employees might be intimidated by such a highly sexualized work atmosphere, which perforce could degenerate into a hostile, and thus illegal, work environment. Sexual favoritism can have adverse effects on third-party employees in the workplace. As such, Byun (2014) asserts the following: “Third-party employees – those employees who do not enjoy a particular benefit because they are not inclined to become romantically involved with a superior – may feel threatened and uncomfortable as a result of the flirtatious, sexual, or romantic conduct of the supervisor and participating employee. Sexual favoritism may lead to lower office morale, as employees may become jealous and feel angry about officemates who use their sexuality to gain benefits” (pp. 268-269). Byun (2014) also warns that “...an angry third party may act hostile toward the employee who receives sexual favoritism” (p. 269). These adverse effects on third parties can be especially severe when the relationship is a superior-subordinate one. Leong (2019) thus contends that “...a supervisor-subordinate relationship that is going badly can be more uncomfortable for third parties because of the power disparity involved” (p. 962).

Sexual favoritism and “paramour preference” undermine the merit principle in the workplace. As such, Leong (2019) asserts that “...it is unsurprising that sexual favoritism produces a negative psychological effect on third parties in the institution,” particularly by vitiating the “meritocracy” principle in the workplace (p. 961). “Favoritism” thus can emerge as a contentious issue as employees tend to believe that favoritism exists when there is a romantic relationship between employees, particularly a manager or a supervisor and a subordinate employee. Favoritism, or even the perception thereof, can engender dislike, disapproval, even hostility among co-workers, especially regarding the receipt of promotions or other benefits or preferential treatment (Leong, 2019). Byun (2014) emphasizes that “(t)he primary concern is that employees are being assessed according to their sexual conduct rather than their work capabilities” (p. 268). Certain surveys underscore the negative consequences for employee. For example, Morgan (2010), indicated that in a 2010 survey, 75 % of U.S. workers surveyed by job search website Monster.com believed a workplace relationship could bring a conflict; and sixty-two percent said they felt office romances were a distraction from job performance.

Office gossip very likely will be increased and intensified by office romance (Leong, 2019). A deleterious work environment of disharmony, negativity, and cynicism could be spawned by an office romance. The legal and practical adverse consequences to office romance could have a “chilling effect” on interpersonal relations in the workplace. Weiss (2019) explains the potential negative repercussions:

When sexual advances are rejected or relationships are ended, the rejected party may experience pain, shame, anger, resentment, or feelings of inadequacy. A rejected supervisor may thus have difficulty treating a subordinate fairly. Fearing this, a subordinate who wishes to reject or end sexual contact may suffer great anxiety and may feel intimidated into sex even when there is not direct threat of harm. Rejected parties may feel this full range of emotions regardless of their original intent: rejection is not fun whether advances were motivated by love, lust, or animus (p.331).

Many employees, moreover, might believe that a workplace relationship could bring a conflict-of-interest situation; and others could feel that office romances are a distraction from and impediment to job performance. Customers of the employer could be affected in a negative manner if the romantically involved co-workers are

paying too much attention to each other as opposed to serving the needs of the employer's customers. Poor customer service will of course "translate" into fewer customers and consequently less revenue for the employer (Cavico, Mujtaba, and Samuels, 2012). Sexual favoritism especially if widespread can create a "sexualized" workplace. Consequently, Leong (2019) warns as follows:

...(A) sexualized institutional environment desensitizes members of the institution to various sexual abuses. Workers who see a supervisor casually engage in sexual relationships with multiple partners may view it as a license to cross other boundaries. They may assume that the institution has a more relaxed view when it comes to sexual harassment; they may feel more entitled to tell inappropriate stories; to feel more empowered to ask for dates aggressively and repeatedly. These harms do not fall on women only, but they disproportionately affect women (p. 969).

The aforementioned negative consequences certainly can be exacerbated when managers or supervisors date subordinate employees. Byun (2014) counsels that "...sexual favoritism can also be damaging to the party consenting to – or initiating – the flirtatious or sexual conduct with his or her supervisor. While the subordinate employee's relationship with the supervisor may be consensual, the employee also may feel intimidated, fearing repercussions if they lose interest or if the relationship ends" (p. 269). Managers and supervisors who engage in widespread sexual favoritism not only will cause legal problems but also send a "loud and clear" and value-destroying message in the workplace that the way for women to get a position, promotion, or job benefit is to engage in sexual conduct; that is, to submit to sexual solicitations is a prerequisite to any type of objective or fair treatment. One cannot think of a more morale-destroying set of circumstances. Sexual harassment lawsuits are also more prevalent when supervisor-subordinate relationships end. Weiss (2019) explains as follows:

The perils of romance in the supervisory setting are attested by the significant number of sexual harassment cases involving a defendant whose feelings about the plaintiff seem, on any reasonable interpretation, to have been sincere and romantic interest. In some cases, the plaintiff had originally engaged in a consensual affair. In others the defendant's interest in the plaintiff was never reciprocated. In either situation, the plaintiff eventually rejected the defendant. At that point, the defendant began to engage in workplace behavior that was harmful to the plaintiff. Sometimes the behavior in these cases is merely wounded – such as avoidance of direct contact that led to less favorable work assignments. In other cases, the behavior was more antagonistic but would not in itself have risen to the threshold need for a hostile environment claim (p. 322).

However, another negative consequence, particularly for female employees, for can arise if a company has a too stringent policy regarding office romance is that the policy, in order to reduce the risk of sexual favoritism and sexual harassment liability, may inhibit the contacts between male and female employees. One, perhaps unintended, result that would be harmful to women because they may be deprived of valuable exposure to higher level male employees, for example, travelling and dining with men, as well as concomitantly decreased mentoring and networking opportunities. Consequently, Kreis (2020) warns: "For women in the workforce such avoidance tactics like this create defensive glass ceilings; these practices isolate women and stunt their growth trajectories while perpetuating stereotypes" (p. 152). Furthermore, severe restrictions on contact could exacerbate the fears of male employees that they will be tempted to overstep some boundary – legal, moral, or marital with their female colleagues. Men, moreover, may fear that simply the appearance of a romantic or sexual liaison or relationship and the perceived attendant jealousy, harm to reputation, and concerns with sexual favoritism and conflicts-of-interest (Kreis, 2020). Since it is nearly impossible for an employer to stop the employees from engaging in romantic relationships, a policy that is too strict a prohibition may actually cause more harm than good consequences, since the employees now may feel compelled to hide their dating relationship, which secrecy could cause even greater problems when management and/or co-workers discover the relationship, and perhaps the "preferences" that accompanied the relationship.

Pursuant to the Utilitarian analysis, therefore, the seminal question is where is the "greater good"? Adopting a free and open office romance policy appears to cause predominant negative consequences for the employer, its employees, and other stakeholders, and thus should be eschewed as immoral pursuant to Utilitarian ethics. However, a policy that allows dating but with the important exception of a prohibition of dating between managers

or supervisors and subordinate employees seems to strike the right balance and achieves more good consequences than bad, and thus would be the moral course of action under Utilitarianism. Of course, there will be some negative consequences for the affected romantic parties, and the Utilitarians would say to try to mitigate these bad consequences. So, perhaps, a prohibition but with the option of one of paramours transferring within the company to a different hierarchical management structure in another facility, division, department, or team would go a long way in lessening the harm of the prohibition. Yet, regardless of whether an action or policy achieves any “greater good” there is nonetheless one more (at least pursuant to ethics in Western Civilization) ethical test to apply to determine the morality of the action or policy – Kantian ethics.

Kantian Ethics

Kantian ethics is the philosophical moral theory propounded by the German philosopher and professor, Immanuel Kant. Kantian ethics is premised on reason, duty, and autonomy. Kant reasoned that morality is not based on the consequences of an action (thus directly contradicting Utilitarianism), but rather on examining the action itself and whether the action passes a formal test, which Kant called the Categorical Imperative. Furthermore, Kant asserts that the Categorical Imperative is the only, true, and supreme ethical test for determining morality. So, regardless of how many “good” consequences an action produces, if the action fails the Categorical Imperative it is an immoral action, regardless if it produces predominant good consequences. As such, the “ends do NOT justify the means” in Kantian ethics; rather, the means themselves must be moral. Accordingly, in order to determine if an action is moral, the formal test of the Categorical Imperative must be applied to the action. It is important to note that the Categorical is not only reason-created and -based, but it is imposed on a person not by the law or the dictates of any government, but freely and willingly by a person who first, acting rationally and logically realizes that the Categorical Imperative is the only true measure of morality, and second, by a person who also has the free will, autonomy, and strength of character to do what the Categorical Imperative tells him or her what is the moral thing to do, and to not do what the Categorical Imperative tells him or her is the immoral thing to do (Cavico and Mujtaba, 2013).

Moreover, to be sure, very sure, that an action is moral, the Categorical Imperative has three parts or tests that must be applied, and all three must be passed for a moral conclusion; and thus if the action fails one test it is immoral. The three parts to the Categorical Imperative are: 1) the Universal Law test; 2) the Kingdom of Ends test, and 3) the Agent-Receiver test (Cavico and Mujtaba, 2013). Pursuant to the Universal Law test an action is moral only if it can be made universally consistent as a moral “law” or precept. Consequently, if when made universally consistent the action cannot sustain itself and self-destructs the action is immoral. Kant used as examples lying and cheating because they cannot be made universally consistent. That is, if everyone lied because “lying” was the “moral” norm, then no one would ever believe anyone else, and thus lying would lose its efficaciousness, and thereby self-destruct. Lying, therefore, is immoral, as is cheating based on the same logical type of analysis. Pursuant to the second test, which Kant called the Kingdom of Ends test, an action is only moral if it treats people as worthwhile human beings deserving and entitled to dignified and respectful treatment. Consequently, if an action treats a person as a thing, tool, instrument, or means to achieve some end, the action is undignified and disrespectful, and thus immoral even if it results in some type of greater good. Finally, pursuant to the third test of the Categorical Imperative, which Kant called the Agent-Receiver test (and which he conveniently borrowed and made secular from the Golden Rule of the Bible), Kant asks one to consider the contemplated action and then to ask if one did not know one would be the agent, that is, the giver of the action, or its receiver, would one be willing to have that action done; and if not the action is immoral. That is, “do unto others as one would want done to oneself” (Cavico and Mujtaba, 2013).

So, how do Kantian ethics apply when employment decisions are being made and benefits granted, not because of an employee’s knowledge, skills, and capabilities, but because the employee is romantically involved with a manager, supervisor, or co-worker. Pursuant to Kant’s supreme test of ethics, the Categorical Imperative, such sexual favoritism is patently unfair and demeaning and disrespectful treatment and conduct in the workplace and thus is immoral. First, pursuant to the “Universal Law” test of the Categorical Imperative, sexual favoritism or “paramour preference” cannot be made into a consistent universal moral norm of “law” since the action logically is not sustainable if applied universally; rather, it self-destructs; that is, no one would want to work for a company

in which the governing “moral” norm is sex-supersedes-qualifications-merit; and thus there would be no workforce (or a very, very limited workforce), and thus no employees and no company. Sexual favoritism also fails the second test of the Categorical Imperative, the Kingdom of Ends test, as the employee who is being discriminated against and denied benefits because he or she refuses to have sex with a manager or supervisor is certainly not being treated with dignity and respect; and actually the paramour of the manager or supervisor can also be treated in a undignified and disrespectful manner as a sex object, and not as a worthwhile human being, especially if there is even a “hint” of compulsion to the relationship due to the disparity of the parties involved. Finally, the Agent-Receiver test of the Categorical Imperative is being violated since what rational person would enter into an employment situation not knowing whether he or she would be the romantically involved co-workers, the preferred paramour, or the third party employee being denied benefits due to preferences being granted to the paramour.

Moreover, even if women (or men) are not directly subject to sexual conduct, if requests for sexual favors are widespread in the workplace a demeaning message is sent to all employees that management regards women (or men) as merely means or instruments to fulfill managers or supervisors sexual wants and needs; and consequently that the required way for women (or men) to get ahead in the workplace is to engage in sexual conduct – voluntarily or involuntarily – with management. Such a sexual environment at work is demeaning and disrespectful to the employees and treats them as mere “things” of a sexual nature and not as worthwhile human beings deserving of dignity and respect. Widespread sexual harassment, therefore, is demeaning to all people in the workplace – women as well as men – and is therefore immoral. Moreover, widespread sexual favoritism treats women as sexual objects and such conduct also sends a message that the way for women to advance in the workplace and to be treated fairly is that they must engage in sex (Leong, 2019). Yet Kreis (2020) notes: “While fundamentally unjust, a romantic relationship’s negative externalities, like the fallout from broken romances, are not actionable sex-based discrimination” under the legal law (p. 189).

There is, however, a philosophical duality in Kantian ethics. The two cardinal principles in the Categorical Imperative are first, respect and dignity for and by human beings, and second, the autonomy and free will of rational human beings (Cavico and Mujtaba, 2013). The latter principle can also be triggered in an office romance situation. That is, a complete ban of dating relationships in the workplace, even beyond managers and supervisors and subordinate employees, “...would intrude too much on the freedom of mature adults, who not infrequently choose to enter such relationships” (Weiss, 2019, p. 330); and thus such a ban would violate their autonomy and free will as rational human beings and consequently would violate Kantian ethics. Accordingly, it would a moral course of conduct under Kantian ethics to allow the employees to date but to clearly inform and remind them that they are adults in a professional setting and thus they must eschew any favoritism and conflicts-of-interest. As such, they should carefully consider the consequences of dating on themselves, their work colleagues, other third parties, and the company. As such, they should abjure public displays of affection and embarrassing conduct, and other inappropriate conduct that distracts other employees and hinders company operations, as well avoid conflicts-of-interest and sexual favoritism (real or perceived); and the dating employees must always treat their co-workers, customers, and clients, as well as each other with dignity and respect. And if the dating relationship ends, the employees must still maintain that level of professionalism, dignity, and respect for each other, the company, and its stakeholders.

Recommendations

So, ethically, what is the moral course of conduct for the employer when it comes to sexual favoritism and office romance in the workplace? Such a determination takes one into the realm of “situational ethics,” that is, morality being decided by not merely the different set of facts “on the ground” but also which ethical theory one is applying to the facts to make the moral determination, especially considering that the two major “modern” theories in Western Civilization – Utilitarianism and Kantian ethics, are diametrically opposed. Consequently, and not to be too “sophisticated” in the presentation and application of ethical theories (as *per* the Sophists of Ancient Greece and their emphasis on pure relativism), but at times the moral conclusion that one reasons to, and even legitimately and logically so, flows from the ethical theory one is applying to the moral question at issue. The authors trust that they have made some objective and well-reasoned moral conclusions based on the four ethical theories

explicated and applied. Moreover, to be even more philosophical in determining the morality of the matters at hand – sexual favoritism and office romance – the authors would harken back to the Roman philosopher Ovid, who famously said “the middle road is the safest,” as well as the Greek philosopher, Aristotle, and his ethical principle of the Doctrine of the Mean, wherein the smart as well as moral course of conduct is the one that is the “mean” between two extremes (Cavico and Mujtaba, 2013), for example, bravery (the right amount of courage) as the mean between cowardice (too little courage) and rashness (too much courage) (Cavico and Mujtaba, 2014). Therefore, for sexual favoritism and office romance policies that are moral we submit that a company should avoid the extremes, that is, neither totally prohibit office romance nor have a wide-open dating policy, but rather find the mean, which logically should be prohibiting dating between managers and supervisors and their subordinate employees (yet with a transfer option), but allowing other employees to date under certain conditions.

It is the responsibility of a company’s management and human resources departments to ensure that business decisions, especially those affecting the employees, are wise, fair, moral, and, of course, legal. Employers, therefore, must be keenly aware of the legal, ethical, and practical implications of office romance and sexual favoritism policies.

First and foremost, appropriate policies, programs, procedures, and training are necessary to combat sexual discrimination and harassment and thus to ensure a fair, just, and functional workplace. “Prevention is the best tool for the elimination of sexual harassment...” in the workplace (Pearce and Lipin, 2015, p. 347). A Code of Ethics or Conduct for the workplace should include a clear and strong policy statement against sexual harassment and discrimination. Most importantly, the policy statement must include “...a bold and direct statement of the intolerance and prohibition of any form of sexual harassment” (Pearce and Lipin, 2015, p.347) as well as discrimination. The code also should include a clear statement of as well as explanation of prohibited conduct. The employer should have an effective policy distribution plan, including communication to and acknowledgement by the employees. Finally, there must be very strong assurances that complaining employees will be protected from harassment or retaliation as well as that any such retribution will be severely punished.

Morgan (2010, p. 75) reported on a survey conducted by the Society for Human Resource Management which indicated that only 13% of 600 companies surveyed had a written policy addressing office romance; and 14% stated they had an “unwritten” one. Similarly, Leong (2019, p. 997) reported on a 2013 Society for Human Resource Management survey that only 36% of companies had a written policy on office romance and 6% had a verbal policy. All employers should be proactive and have policies on relationships and dating among co-workers. Employers should also ensure that all the employees are aware of such policies.

Another policy is to have managers and supervisors report dating type relationships; but not to require such reporting by lower level employees. Byun (2014) warns that there is a “downside” to any reporting requirement, and that is ‘...some employees will violate this ‘you must tell us’ policy. Then, more serious problems can arise” (p. 285). If the employer does establish a policy on office romance or dating in the workplace, the employer must ensure that all employees are aware of the policy and that the policy is consistently and fairly enforced (Davidson and Forsythe, 2011). Restrictive dating policies may not be efficacious for a small business. A restrictive dating policy “...is generally not practical in small business, especially one that employs family members. If the entrepreneur is employing her spouse, it is difficult for her to say that other employees cannot start dating” (Davidson and Forsythe, 2011, p. 186).

One proactive measure that employers can take to avoid liability for sexual harassment and discrimination as well as to avoid charges of sexual favoritism is called formally a “consensual relationship agreement,” or more informally a “love contract” (Byun, 2014; Cavico, Mujtaba, and Samuels, 2012; Selvin, 2007). A “love contract” can help protect the employer from discrimination, harassment, and retaliation claims, particularly favoritism-based ones, as well as help educate the employees as to workplace rules and standards of conduct, and to ensure that the employees’ romantic relationship does not interfere with their job performance or the performance of their co-workers. The “love contract” should bring the romantic relationship “to the surface,” where it can be dealt with in the workplace in a rational and mutually satisfactory manner, as opposed to an outright ban on workplace

romance, which might force the romantically involved workers to “go underground” with their romance, thereby inhibiting their work performance.

There are a wide variety of office romance policies. The primary objective of restrictive policies and measures is to shield employers from liability pursuant to sexual harassment and sexual discrimination laws if the office romance later degenerates into a workplace dispute. Employers also want to minimize morale problems at work, especially charges of sexual favoritism, and the concomitant disruption, as well as negative publicity – externally as well as internally, which can all affect the bottom-line of the business. Furthermore, an executive’s failed office romance may impair the executive’s ability to lead the company. Office romances can be a major distraction at work, even without charges of favoritism and conflict-of-interest (Cavico, Mujtaba, and Samuels, 2012). Consequently, employees who date and form relationships, whether secretly or openly, should be very scrupulous about keeping aspects of their romantic relationship out of the office (Cavico, Mujtaba, and Samuels, 2012). They first should familiarize themselves with the company’s policy on office dating and romance (Gallo, 2019). In addition to informing management, some couples inform their co-workers, including new employees, they are dating. They also can tell newly hired employees that if they felt uncomfortable about their dating, they should inform a manager. Romantically involved employees also can tell newly hired employees that if they felt uncomfortable about their dating relationship, they should inform them as well as a manager.

The romantically involved co-workers should avoid any public displays of affection or flirting; rather, they should act as professional colleagues at all times; otherwise, their co-workers may feel very uncomfortable (Gallo, 2019). The office romance policy must emphasize that employees who are in romantic relationships need to conduct themselves in a proper and professional manner in the workplace. Consequently, any public displays of love and affection in the workplace, as well as gratitude to a partner, though perhaps at times tempting, must be forbidden, because such conduct will make the other employees, as well as customers and clients, feel awkward and uncomfortable, thereby impeding efficiency, effectiveness, and productivity in the workplace, as well as creating an atmosphere sexually offensive and thus illegal. Suffice-it-to-say, at work the employees should be focused on their responsibilities as employees and not on romance (Cavico, Mujtaba, and Samuels, 2012). Moreover, even if a company does not have an office romance prohibition, the affected employees should first be aware if the relationship is adversely affecting their own job performance and productivity. The parties should also raise the issue with Human Resources as well as consider transferring to a different division or department of the company in order to avoid any perceptions of sexual favoritism and conflict-of-interest. Office romance, regardless of how much disapproves of the practice, cannot really be stamped out, as adults who are sexually and romantically attracted to one another will “find a way,” but the practice can, and should be, regulated and moderated in a legal, ethical, fair, and balanced manner.

Summary

With employees and managers spending longer hours at work side-by-side each week, it is inevitable that workplace romances will continue to take place and evolve among them. Research shows that about 40% of employees are unaware of their company’s policy on workplace romances. So while it is necessary to have some type of a relevant policy in place regarding romantic relationships at work, it would be even better to make sure that all employees are familiar with the policy and can abide by them without fearing retaliation. The goal is to protect all employees and managers involved and to make sure that the relationship is truly consensual and to monitor for signs of sexual favoritism. Again, the aim should be to create a transparent and healthy work environment for all managers and employees alike.

Sexual behavior in the workplace has brought the onset of the #MeToo movement which has imparted a greater awareness of improper sexual conduct in the workplace as well as empowered victims as well as other employees to disclose such wrongdoing. Therefore, the authors sought to examine the important topics of sexual favoritism and office romance in the workplace from practical and ethical perspectives. As such, the article addressed some of the legal aspects of office romance, sexual favoritism and sexual harassment in the workplace. We also analyzed the topics of sexual favoritism and office romance from an ethical perspective to determine the morality of certain workplace policies and conduct. Four ethical theories were applied to make moral conclusions, to wit: Ethical

Egoism, Ethical Relativism, Utilitarianism, and Kantian ethics. The positive vs. negative consequences of office romance were set forth in a balanced manner. Then, we made several practical recommendations for management, first, generally, to avoid lawsuits for sexual harassment and discrimination and to curtail sexual favoritism, and then specifically regarding appropriate office romance policies and procedures, with particular attention on the so-called “love contract.” The goal of the authors in this article was to help employers and managers create and sustain a healthy and safe as well as legally compliant, ethical and moral workplace for all the affected stakeholders - employees, vendors, suppliers, clients and customers, the local community, and society as a whole.

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