

SUPERVISOR SHOULD REPORT LOVE IN THE AFTERNOON SHIFT

QUESTION: I supervise a crew in a cannery operation. Lately, I've been spending a lot of time outside of work with Wendy, one of the employees on my shift. We're both single and looking, and there definitely seems to be a spark between us.

But I was hurt and angry when my supervisor called me into her office today and told me that she had heard about me and Wendy. She said she wanted to remind me that our company has a policy that requires me to inform her if I am dating anyone I supervise. She also said that although she does not want to interfere with my personal life, she felt obligated to remind me of the personal and company liability I could be creating if the relationship went sour.

She mentioned possible scenarios such as Wendy breaking up with me, my giving Wendy a bad performance appraisal, and Wendy subsequently filing a sexual harassment claim alleging that she was being retaliated against for choosing to end the relationship. She also said that for everyone's sake, I should give some serious thought to transferring to a vacant shift in the company, where I would not be supervising Wendy.

I thought I was entitled to do whatever I wanted on my own time. Isn't the company going too far with this policy?

ANSWER: Probably not. As sexual harassment claims have become more common over the years, many employers have adopted policies prohibiting workplace dating. These policies have been instituted to lessen the potential for harassment claims, in case the relationship turns sour.

But as you have illustrated, there are potential problems with these policies. While they are not technically illegal, they can create resentment among employees who believe that employers should not be regulating what they do on their personal time. In addition, and for obvious reasons, such policies are nearly impossible to enforce. Finally, there is a chance that such policies could lead to a claim of discrimination based upon marital status (since married couples in the workplace are obviously allowed to "date" each other).

Therefore, many employers have adopted a less intrusive and far more effective compromise: They do not prohibit dating among co-workers, but they require that ALL employees exhibit professional conduct and treat each other with dignity and respect. Then, if any improper behavior occurs on the job between a couple who is dating, employers can address it as they would address any other inappropriate workplace conduct, regardless of its origin.

When it comes to romances between supervisors and subordinates, however, these same employers often have a policy stating that while such relationships are not forbidden, they are strongly discouraged. The policy may also state that if this kind of personal attachment does develop, the supervisor is required to report it to his or her own boss. The company can then take

whatever measures are necessary to minimize the potential conflict between the professional and the personal relationship. This could include transferring the parties, or even asking one or both of them to leave the company.

If these actions are taken, however, the employer must be very careful to not make it appear that the subordinate employee is getting the raw end of the deal. That would increase – not decrease – the possibility of a harassment claim.

For more information about this and other important issues affecting Oregon employers, including seminars conducted by BOLI's Technical Assistance Unit, please visit our website at www.oregon.gov/boli/ta. You can also call us at 971-673-0824.