

Stay in the Friend Zone

By Reg P. Wydeven
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My first summer job was as a temp at a medical clinic. One of the doctors was leaving, so I had to look in each of the clinic's 34 trillion files and put blue stickers on those that were just his. I was excited to learn that of the file room's 7 employees, I would be the only guy. I was less excited when I learned that my youngest co-worker was 53.

Because it was a tedious job, the ladies enjoyed discussing very intimate details of their love lives to pass the time, especially knowing it made me very uncomfortable and embarrassed. Coupled with the images the stories put in my head, it also made me a little nauseous.

With all of the sexual misconduct claims being brought to light against celebrities and politicians lately, I can't help but think back to that uncomfortable temp job. A little 'locker room talk' made me squirm, so after hearing about some of these alleged incidents, I couldn't imagine what these actual victims endured.

If the medical clinic had a sexual harassment policy in place, it didn't work so hot.

My friend and co-worker, Rebecca Kent, practices in the employment law area. After the #MeToo social media movement started picking up steam, she's experienced an increase in calls from clients to review their sexual harassment policies.

These policies are so important not only because of the prevalence of sexually charged comments and behaviors that are so much a part of our society, but also because of the prevalence of inter-office love. According to a survey by the Society for Human Resource Management, one out of four employees reported they have been or are currently involved in a workplace romance. Romantic relationships could prove problematic for an employer when the relationship ends and one of the employees continues to pursue the other, and that pursuit is no longer wanted and welcome.

Thankfully, policies are on the rise. In 2005, 25% of companies had a written or verbal policy in place, compared to 42% in 2013. Given the numerous recent scandals, presumably this number will continue to grow. Becky believes every employer should have a written policy in place that includes at least the following components:

- **Prohibited behavior.** The policy should prohibit unlawful quid pro quo harassment, which occurs when submission to or rejection of a superior's unwelcome sexual advances or requests for sexual favors is used as the basis for employment decisions affecting the employee. The policy should also prohibit hostile work environment, which occurs when verbal or physical conduct of a sexual nature is so frequent, severe and pervasive that it unreasonably interferes with an individual's work performance or creates an intimidating, hostile and offensive work environment.
- **Complaint process.** The policy must have a process by which an employee can bring a complaint of workplace harassment and to more than just one person.
- **Investigation.** Once a complaint is received, the employer's legal duty is to investigate to determine if harassment is occurring, and, if so, to take appropriate action to correct the harassment and prevent it from recurring in the future.
- **No Retaliation.** Retaliating against an accuser is unlawful under federal and state law, and the policy needs to emphasize this fact.
- **Training.** Employers need to distribute their policy and conduct workplace training so that employees from the top down understand what conduct is prohibited, the process for bringing a complaint of sexual harassment to management's attention, and the prohibition against retaliation.
- **Enforcement.** Employers must be ready to take appropriate corrective action, up to and including immediate discharge, if a violation of the policy is found, **with no exceptions**.

My policy is to follow the advice my mom gave me: if what I'm thinking of saying is something I wouldn't say to her or my sister, I shouldn't say it to anyone at work.

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