

Updates from the Office of the Commissioner Representing Employers

Texas Business Today

Aaron S. Demerson
Commissioner Representing Employers

February 2022



Dear Fellow Texans,

Welcome to your February issue of Texas Business Today! As we continue into the New Year, let's take a moment to celebrate Black History Month. While this month is an annual recognition of the history, achievement, and influence of the African American Community, I also want to take the opportunity to recognize our African American owned businesses. Texas has approximately 1.1 million African American owned businesses, which makes up 39.3% of all the small businesses in the state. When you are out in your community, let's seek out these establishments and always try to shop and eat local!

In agency news, TWC recently approved an additional \$1 billion in direct support for our Child Care Industry, increasing the available funds for the Child Care Relief Fund to \$3.4 billion. Supporting our child care businesses across the state is a win-win situation for our Texas employers, their staff, and families that are seeking child care in order to remain in, or rejoin, the workforce.

To all our Texas employers, thank you for being patient and flexible during these last two years. I appreciate your hard work in running a company successfully, serving your customers, growing your business, and at the same time staying in compliance with statutes and regulations. In Texas, we do not rest on our laurels and our goal will be to keep the Lone Star State the best state for business.

Let's Continue to Make Progress!

A handwritten signature in black ink, appearing to read 'Aaron Demerson', written over a thin horizontal line.

Aaron Demerson
Commissioner Representing Employers
Texas Workforce Commission



Workplace Romance and Sexual Harassment: How Employer Policies Can Help

By Elsa Ramos, Legal Counsel to Commissioner Aaron Demerson

Ah, February – the month traditionally known for love and romance. However, when Cupid visits the workplace, it does not always result in a

happily-ever-after for the employer.

Good relationships between employees and their peers, as well as between supervisors and those they supervise, play an important role in the success of any organization. Employees who work with people they like, and who feel appreciated at work, are happier, more satisfied, and arguably more productive in their job.

However, these relationships may grow into something more. The internet contains different statistics, but consensus seems to be that more than 50% of employees (and perhaps as high as 65%) have dated a co-worker. When things are good, perhaps employers feel they have little to worry about. But what happens when a workplace romance runs into trouble, and this trouble finds its way into the workplace?

Employers beware: a workplace romance that ends badly often affects more than the couple involved in the relationship. Employers can find themselves facing unwanted challenges which negatively affect the day-to-day operations of the business, such as employee gossip, disruption of workflow, employee turnover, and more importantly, claims of sexual harassment.

Beginning in September of last year, Texas law expanded sexual harassment protection to all employees in Texas. In other words, ALL employers who employ one or more employees are now covered under the law and could be liable for claims of sexual harassment. Prior to this change, only employers with at least 15 employees were potentially liable for sexual harassment claims. To review more information on the new sexual harassment law and its requirements, please review this article from a 2021 issue of *Texas Business Today*: <https://twc.texas.gov/files/businesses/tbt-2nd-qtr-2021-twc.pdf>.

Employers can take steps to reduce, mitigate, or prevent sexual harassment claims by implementing policies to address these issues. Most employers already include harassment policies in their handbooks that prohibit many forms of harassment, including sexual harassment. However, these policies do not specifically address relationships between employees that exist outside of, and apart from, the working relationship.

Fraternization policies, on the other hand, can set out the employer's expectations regarding different types of interpersonal relationships between employees, as well as the consequences for failing to meet those expectations. Employers can place restrictions on employee relationships outside of work. While it is not really feasible to limit or prohibit all possible off-duty contact between employees, employers can set reasonable limits on such relationships if the conduct poses a threat to the employer's interests.

Fraternization policies can take several forms. They run the gamut from simply discouraging relationships outside of work, restricting dating relationships if they create workplace disruptions, banning supervisor/subordinate dating, to prohibiting all employee dating. Our *Texas Guidebook for Employers: Especially for Texas Employers* contains a sample fraternization policy that may prove useful:

https://twc.texas.gov/news/eft/relationships_workplace.html.

Not all workplace romances end well. Unfortunately for employers, the ripple effect of the aftermath usually extends far beyond the employees involved and could expose employers to legal liability. Taking the time to draft and implement policies to address these issues before problems arise is an important step in mitigating potential risk.

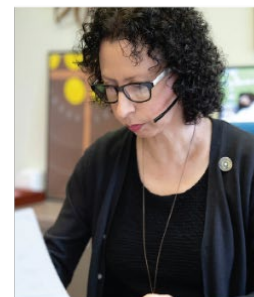
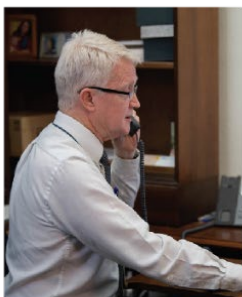
For more information on how to minimize harassment liability, please review this information from our *Texas Guidebook for Employers: Especially for Texas Employers* :

https://twc.texas.gov/news/eft/harassment_minimizing_liability.html

TEXAS EMPLOYER HOTLINE

1-800-832-9394

Hiring Issues · Medical Leave-Related Laws · Personnel Policies and Handbooks · Independent Contractors and Unemployment Tax Issues · The Unemployment Claims and Appeals Process · Texas and Federal Wage and Hour Laws



Employer Hotline Hours: M-F, 8am-5pm

Information provided by employment law attorneys in the Office of the Commissioner Representing Employers at the Texas Workforce Commission

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