

Age discrimination in the workplace essay 2



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Age Discrimination in the Workplace Age discrimination in employment is a complex issue which impacts many areas of Government policy and has many implications for individuals themselves. Age discrimination can occur across all spectrums of employment and can affect both young and old. Age discrimination can affect a person's chances of getting a job, and potentially their chances of promotion or development within the workplace.

Age can also be a factor when employers are deciding who should be selected during a workforce downsize or redundancy of work due to a mergers and acquisitions. Age seems to be more of a common issue in the workplace than racism or sexism. Approximately 20% of all complaints filed with the Federal Equal Employment Opportunity Commission (EEOC) are for age discrimination, settlements and jury awards are substantially higher in age related cases than in those for race, sex or disability discrimination (Age Discrimination, 1999). Generally older people are accused of lacking energy and flexibility, while young people lack experience and want it all. Many people do not get the opportunity to show whether or not they have what it takes because of their age.

These people are being discriminated against and therefore, robbed of their employment opportunities. Definition of Age Discrimination Direct and indirect forms of age discrimination exist in employment. Obvious forms of discrimination are where people hold strong, stereotypical views about a person's capabilities to do a job or to be developed because of their age. An example is an employer could regard all 23 year olds as immature and incapable of managing older workers, even if they have the right experience and qualifications for the job. On the other hand, an employer could consider

those over 50 unable to learn new technology due to change and their age. Age discrimination can affect younger workers when it comes to wages irrespective of their abilities.

It can affect workers in their twenties through the tendency to set arbitrary age limits in job advertisements as a substitute for a decision based on the merits of the applicants. It can affect women over 35 and men over 40 who are trying to find new employment or change direction mid-career. Older unemployed workers may have greater difficulty finding work and experience longer periods of unemployment than other age groups. The proposed legislation will require employers to abandon age stereotypes and assess individuals on their merits. More subtle forms of age discrimination exist where a person may not realize that a corporation is discriminating on the grounds of age.

This situation assumes that an older person is less likely than a younger colleague to want to be considered for a promotion or continued developmental path. In addition, some older workers themselves may doubt their own ability to learn new skills and may rule themselves out for opportunities. For instance, some older workers may feel they would not be able to learn about information technology when in fact, they have been learning about new technology throughout their career. Age vs.

Youth A fine line exists between trying to help people who are most likely to experience age discrimination in employment so that they have the same opportunities as others, and positively discriminating in their favor at the expense of others. Having identified unacceptable stereotypical behavior, a

danger could exist in potentially adopting stereotypical attitudes such as all older people are more reliable than younger ones to try to bridge the gap. This approach might help to tackle some stereotypes but it does not help to promote the vision of an economy making the most of the diverse skills, potential and experience available to it. Discrimination against Older Persons
Older workers often face discrimination.

Employers may not want to hire older workers because of the following reasons: the employer thinks that they are less productive, they may demand higher salaries, they are more costly to insure, or they may not work long enough for the employer to recover any training costs which it has incurred. The same logic applies to promotions and transfers. An employer may want to shed itself of its older workers to cut costs (Age discrimination in the workplace, 1999). The Civil Rights Act does not make age discrimination illegal, but Congress has since enacted another law, the Age Discrimination Employment Act of 1967 (ADEA).

The ADEA is administered by the EEOC, and similar in most respects to the Civil Rights Act. Both disparate treatment and disparate impact charges are possible. The Act protects workers 40 years of age and older. A 45-year-old who applies for a job and is rejected in favor of a younger worker can claim disparate treatment. The employer will then have to show that the younger worker was better qualified or provide some nondiscriminatory reason for its decision. An employer could argue that it paid a newly hired younger worker more than an older current employee because this was necessary to attract the younger worker to the job.

In disparate impact cases, employees must show that the entire protected group (workers 40 and older) is affected by the employer's practice and not just some part of the protected group (workers over 60, for example) (Player, 14). The law does allow age to be considered a bona fide occupational qualification (BFOQ) more easily than it does sex, but still this defense is relatively narrow. An employer has to show that most people in the protected category who would not qualify for a job because of some age limitation cannot do the job effectively. Alternatively, the employer has to show that some older workers cannot do the job effectively but that it is not possible to know which specific workers cannot.

Effectiveness is most often judged in terms of the safety of coworkers and customers (Player, 51). Discrimination against Younger Persons Younger persons are stereotyped as irresponsible and inexperienced. Employers may feel they are not serious enough to take on such demanding positions. The younger the person is, the more immature he or she may be. Younger persons are very often under paid, due to their age. The question of whether the payment of a lower wage to workers under 21 should be exempted by anti-discrimination legislation has opposing arguments; each with some merit.

One view is concerned with the elimination of youth wages leading to an increase of youth unemployment and reducing the opportunities for young workers to gain experience. The opposing view is that the concept of lower rates for people under 21, based on the idea that people below this age would be supported by their parents, is outdated. Instead, workers should be paid according to merit and productivity and a training wage would be more

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appropriate option for an inexperienced worker. Age Discrimination in Employment Act Prohibition against age discrimination is found in the Age Discrimination in Employment Act, 29 U. S.

C. A. § 621 et seq. (ADEA). As the operative language of the ADEA was modeled after Title VII, similar terms of the two statutes are given a parallel construction. *Western Air Lines, Inc.*

v. Criswell (S. Ct. 1985).

As does Title VII, the ADEA reaches all aspects of workplace discrimination: hiring, assignments, promotions, compensation, environment, and discharges. The ADEA prohibits age discrimination against individuals who are at least 40 years old. Age distinctions applied to those under age 40, such as imposing a minimum hiring age of 18, 21, or 30, do not violate the ADEA. However, a maximum hiring age, of say 35, is proscribed age discrimination if applied to a person over the age of 40. The age 70 limit for protection was removed in 1986.

Consequently, unless justified by a defense, any fixed retirement age, 65, 70, or even 80, is a violation of the ADEA (*Player*, 15). For those over age 40, younger persons are protected against age discrimination under the same terms, as are older persons. It thus violates the ADEA to prefer a person 65 years old to one who is 45 years old. Age discrimination occurs when a company imposes on workers of one age group requirements or conditions and not imposed on other age groups. An employer may not, for example, require employees over the age of 50 to take physical or mental test not

given to workers under 50. Standards of performance and discipline must be applied equally to all age groups (Player, 14).

Discrimination Reduction Until business leaders recognize age discrimination is prevalent and requires immediate action, the courts are going to continue to impose large fines and award punitive damages for age discrimination in the workplace. In order to reduce or eliminate costly age discrimination litigation the following steps can be taken. " Steinhauser has developed a list of the Top Ten Actions businesses can take. 1. Recognize age bias and discrimination as the pervasive, escalating issue it is.

. Do an audit to assess your organization's culture. " Find out how employees feel about older workers and how those feelings manifest themselves in the workplace. Messages often emanate from the CEO and are picked up by managers and supervisors.

3. Re-think attitudes about older adults in your workplace. 4. Initiate a dialogue between managers of different departments regarding age discrimination. Discuss the issue at appropriate professional organizational meetings to find out how other businesses are dealing with it. 5.

Review and, if necessary, revise policies, training programs, recruiting methods, job designs and evaluations to eliminate discriminatory language and/or implications. 6. Expand preventative training on age bias. 7. Spend less time documenting deference's against potential age discrimination lawsuits and more time preventing or minimizing them.

8. Tap into agencies and networks that involve the older adult population. 9. Develop community relations programs to support services for older adults in the community as part of your company or organization's agenda for being a good corporate citizen.

10. Build morale and higher productivity by demonstrating to older workers that they are valued and appreciated. Companies, corporations, and organizations must develop innovative and sensitive programs to address the issue of age bias and discrimination in the workplace. " (Age Discrimination in the Workplace, 1999). Conclusion Age discrimination is an issue, which cannot afford to overlook. Anyone entering the workforce or moving from one company to another should be concerned with this issue.

Many people are not given the opportunity to demonstrate what they know because they do not fall within the age criteria that the hiring manager is looking for. Corporations must acknowledge age discrimination exist and implement steps to resolve it. The first step to resolve age discrimination would be to educate managers and corporations on hiring practices. The second step would be advise them to consider candidates based on skill level, knowledge and not age. Lastly implement an auditing process to ensure the guidelines are being followed.