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Boomers are booming everywhere -- especially at work

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I am a boomer. I was born, well, hmmm, let's just say a haberdasher from Missouri was president when I was born. Many businesses are just now beginning to look around and see that so many of their workers are just like me -- baby boomers or older. All businesses, to remain competitive, will need to take steps to make sure these workers continue to be productive and engaged by their jobs.

Plus, older workers (starting at age 40) are protected by a host of laws that both make it more imperative that companies work hard to keep their aging work force connected and at the same time, sometimes, push older workers away from their employers. It is no wonder that the U.S. Supreme Court is hearing five cases this session related to age in the workplace.

The issues that arise today with older workers are likely just a small taste of what is soon to come as more and more boomers become part of the oldest segments of the work force. Employers are struggling to learn more and understand about successfully managing an aging work force. Age is, in fact, a highly significant component of what it means to have a diverse work force -- one that should be included as a critical part of the company's diversity initiatives.

Many employers are afraid to deal with age diversity issues because of the legal minefield discussed above. Employers need not throw up their hands in despair. Plus, they cannot afford to -- us baby boomers are not getting any younger.

Fortunately, companies can and are forging effective strategies to engage their older workers, using well conceived management techniques and consultation with legal advisers.

Map of the legal minefield

Most employers know that age discrimination in employment is prohibited. What that actually means is often a good bit more complex. Just as there are laws protecting workers from job discrimination because of their race, religion, sex, national origin and disability, employers must provide equal opportunity in all areas of employment for older workers.

The Age Discrimination in Employment Act (ADEA), the federal equal employment law, protects employees from job discrimination beginning at age 40 (yes, 40). With some exceptions, the ADEA prohibits employers from using age as a factor in making hiring, firing, promotion, training, etc., decisions about employees.

Right now, the law in this area is undergoing tremendous change. Recently, the Supreme Court broadened protections for older employees by ruling that the ADEA is meant to favor older workers over younger workers.

Also, for the first time, it has given workers 40 and over the right to bring class actions for what is known as "unintentional" discrimination where an employer's policies or practices have a "disparate impact" on them as a group.

The law also protects job applicants who are 40 and over from being discriminated against in hiring. A younger job applicant cannot be hired when an older applicant is more qualified for the job. In an attempt to spur hiring of older workers, the U.S. Equal Employment Opportunity Commission (EEOC) recently issued new regulations allowing employers to use words in job advertisements that signal they are looking especially for older applicants.

Many more changes are expected. The Pension Protection Act of 2006 includes a provision allowing for "phased retirement." The Internal Revenue Service is expected to issue guidelines explaining exactly what that provision means.

The EEOC is now interpreting the ADEA so as to include many business owners in its prohibition of forced mandatory retirement, and it is questioning the "equal benefit" rule that has required employers to provide full health benefits to older workers who also receive health insurance from the government as part of their Social Security benefits. Exactly what the law will be in these areas is not yet known for certain.

Older worker biases

While lawmakers, courts and government agencies are busy working on these issues, businesses should be educating everyone in their work forces about the need to treat everyone equally regardless of their age, and, importantly, to make age diversity a vital component of the business' diversity initiatives.

Employers should look at their anti-harassment and discrimination policies and work force training programs to see if they are doing enough to dispel myths, misperceptions and assumptions about older workers.

Even casual comments at work that disparage older workers are unacceptable. Describing older employees as "over the hill," for example, is as offensive as calling an attractive woman "a cute little dish."

Older workers should not be viewed as less intellectually competent just because of their age. Assuming that an older worker is "about to retire" may simply be based on stereotypes about what it means to age and not the particular employee's plans.

Even older workers can benefit from training that helps them to distinguish between myths and facts about aging. No one should have their productivity impeded or their expectations of themselves diminished because they accept as true the myths or biases about aging.

The big payoff

Like all diversity efforts, companies that effectively engage their mature workers will reap huge benefits from enhanced morale, productivity, efficiency and reduced turnover costs. American business must come to terms with these issues -- it is not just a demographic imperative -- it is a business imperative.

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