



# 4 Generations in the Workplace

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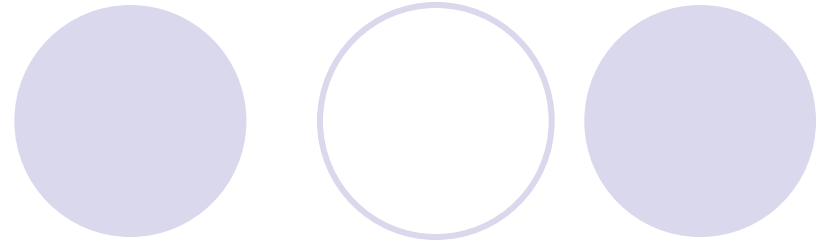
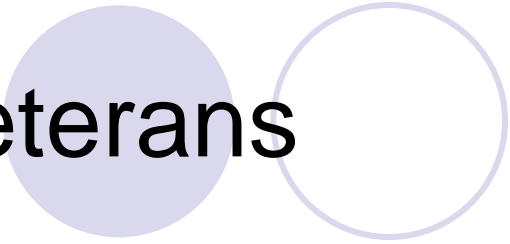
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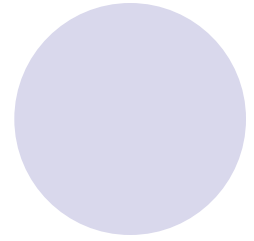
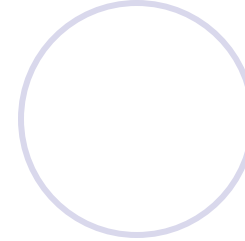
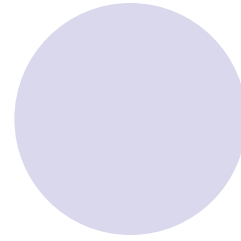
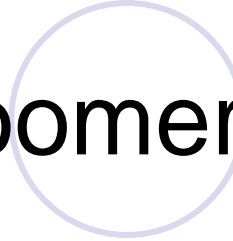
- Veterans
- Baby Boomers
- Gen Xers
- Millennials

Veterans



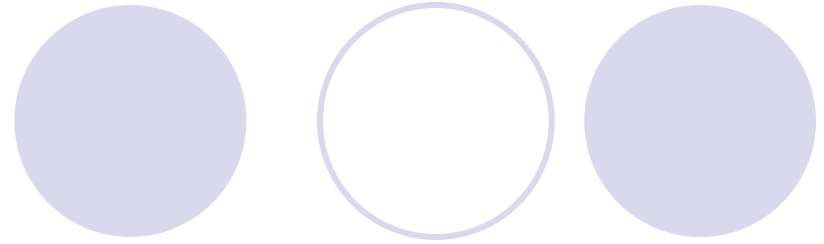
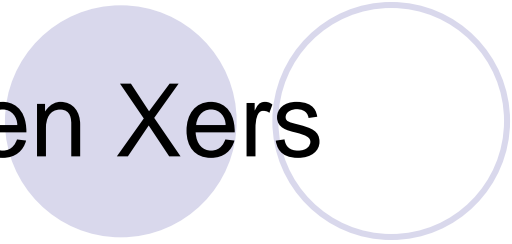
1925-1945

Baby Boomers



1946-1964

Gen Xers




1965-1980

Millennial (or Gen Yers)

1980 - Present

# Generational Characteristics in the Workplace



- Veterans

- Desire consistency/uniformity
- Disciplined and loyal
- Need for feedback minimal

# Generational Differences in the Workplace



- Boomers

- Team building
- Work long hours
- Prefer collegial/congenial management style
- Prefer face to face communication
- Like feedback



# Generational Differences in Workplace

- Gen Xers

- Value freedom and autonomy
- Do not value “paying dues”
- Rules are open to interpretation
- Not confined to 9 – 5
- Work is a means to an ends



# Generational Differences in Workplace

- Gen Yers

- Hate being micro-managed
- More culturally aware and open to different points of view
- Reliance on technology
- Need constant positive reinforcement
- Recognize importance of older generations as mentors

# Similarities Between Generations



- Resistance to change
- Strong work ethic
- Respect for authority

# Managing 4 generations



- General Strategies

- Education
- Set time
- Creativity



# Generation Specific Strategies

- Veterans
- Boomers
- Gen Xers
- Gen Yers

# Developments in Age Discrimination Law

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# ADEA Claims Rising



- EEOC Age Discrimination Claims:
  - 2005 = 16,500
  - 2006 = 16,500
  - 2007 = 19,000
  - 2008 = 24,500
- Claims expected to continue rising as population ages

# No Longer Title VII's Twin Sister

- The new laws move ADEA further away from Title VII.
- The two laws have less in common than ever.

# ADEA Basics



- Protects individuals who are 40 years old or older from unlawful discrimination with respect to hiring, termination, promotion, layoff, compensation, benefits, job assignments, training, etc.
- Applies to employers with 20 or more employees.
- Two Types of Claim
  - Disparate Treatment
  - Disparate Impact

# ADEA Basics



- Disparate Treatment Claims

- Plaintiff must prove that he or she:

- Is 40 years old or older
- Was qualified for the position
- Was adversely affected despite being qualified
- Age was a substantial or motivating factor in the decision (requires some level of intent)
  - Someone substantially younger was given the job and/or benefit
  - Younger employee can also be 40 or older.

# ADEA Basics



- Disparate Impact Claims

- Plaintiff has to prove

- Employer has a neutral policy or practice

- That has a disparate impact on older workers

- No showing of intentional discrimination is necessary

# ADEA Basics



- Burden Shifting

- Plaintiff presents a prima facie case (i.e., enough evidence to infer that discrimination may exist)
- Burden shifts to employer to prove the action was taken for a legitimate non-discriminatory reason
- Burden shifts back to employee to prove by a preponderance of the evidence that the employer's reason is a pretext for discrimination.

# ADEA Basics



- Employer's Defenses

- Bona-fide Occupational Qualification (BFOQ)

- Reasonably necessary to the normal operation of the business

- Reasonable Factor Other than Age (RFOA)

- Not available under Title VII

- Examples

- Seniority
      - Length of service



# ADEA Developments – Disparate

## Impact

- Disparate Impact Is Available Under the ADEA
  - Decided in 2005 by US Supreme Court in *Smith v. City of Jackson Mississippi*.
  - Before *Smith* most courts had held that disparate impact was available and that only the BFOQ defense was available.
  - The Court in *Smith* agreed that disparate impact theory is available under the ADEA, but also held that both the BFOQ and the RFOA defenses apply.
    - Document your reductions in force



# ADEA Developments – Disparate Impact

- Although the RFOA defense is available, it is the employer's burden to prove. *Meacham v. Knolls Atomic Power Library* (2008).



# ADEA – Unlike Title VII

- Title VII has no RFOA defense.
- ADEA cases are more difficult for employees to ultimately prove because of this defense



## ADEA Developments – Benefits Plans and Disparate Impact

- Eligibility factors used for retirement or other benefits plans are often attacked under the disparate impact theory.
- In 1993 the US Supreme Court held that action taken based on years of service and not age did not violate the ADEA
- Since *Hazen Paper* most plans do not use age as an eligibility criteria. They use years of service.



## ADEA Developments – Benefits Plans and Disparate Impact

- In 2009 the Court decided *Kentucky Retirement Systems*
  - Analyzed a disability benefits plan under a disparate treatment and not a disparate impact theory.
    - Reasoning was because the policy was facially discriminatory'
  - Held that where a pension plan includes age as one factor in a complex formula, it does not violate the ADEA.
  - Held that plaintiff must show that the different outcomes of the plan were “actually motivated” by age.

# ADEA Developments – Mixed Motive

- Biggest win for employers in age discrimination law is *Gross v. FBL Financial Services*. (July 2009)
- Held:
  - Plaintiff carries the burden to prove that “age was the ‘but-for’ cause of the challenged employer decision.”
  - A plaintiff can no longer win by showing that age was a substantial factor or a motivating factor. It has to be the factor that caused the adverse employment action.
- Criticized burden shifting

# Oregon Age Discrimination Law

Oregon has never used burden shifting

- Summary judgment standard is low
- Uses substantial or motivating factor analysis
- Allows full plethora of damages
- Oregon courts will likely see few ADEA claims
- Protects anyone over age 18

# Washington Age Discrimination Law

- Uses burden shifting
- Uses substantial or motivating factor test
- Limited damages (no punitive damages)
- Washington employers will see both ADEA and WA state claims.
  - Can remove to federal court

# Idaho Age Discrimination Law

- Follows the ADEA closely
- Will prior cases interpreted under the old ADEA be overruled, or will the Idaho courts follow the old employee-friendly cases.
  - For example, Idaho courts rejected the RFOA defense in disparate impact cases. Will it follow *Smith* and allow the defense, or will it continue to follow Idaho precedent?

# Alaska Age Discrimination Law

- Law is less developed, leaving more room for courts to interpret state age discrimination law consistent with the new interpretations of the ADEA.



## The Bottom Line

- Continue to avoid using age as an eligibility factor for benefits. Use years of service or pension eligibility. But if age must be one factor among many, it may not violate the ADEA.
- Document your RFOA – It's your burden!
- There will be more age claims because of the aging work force. But age claims are much harder for a plaintiff to prove (and, therefore, less attractive to plaintiff attorneys) than Title VII claims.



# Managing Generational Conflicts



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# Overview



- First time 4 different generations working together in workforce (8% Traditionalists, 41% Boomers, 30% GenX, 21% GenY/Millenniums)
- The experience, goals and expectations of each generation are different
- May result in conflict and potential legal liabilities
- Advantages of intergenerational workforce generally outweigh disadvantages

# Positive Outcomes



- Different generations generally work effectively together
- Different generations learn from one another in the workplace
- Better quality work product due to variety of generational perspectives

# Negative Outcomes



- BridgeWorks' 2001 *Generations Survey* –  
One third indicated they were often  
offended by someone from a different  
generation at work

# Negative Outcomes

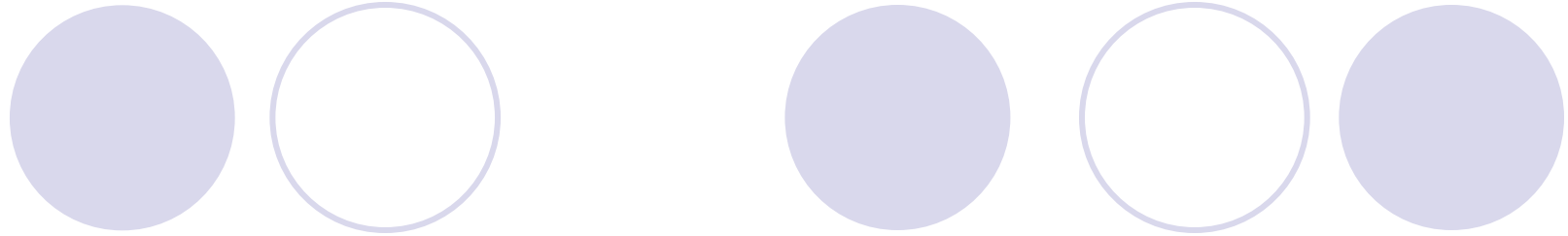


- Common areas of conflict/concern:
  - work ethic, acceptable work hours
  - dress/appearance issues
  - lack of respect/failure to take seriously
  - in/ability to deal with change
  - technology issues
  - organizational hierarchy issues

# Other Concerns

A decorative graphic consisting of two groups of three circles. The first group on the left has a solid light purple circle on the left, a white circle with a light purple outline in the middle, and a solid light purple circle on the right. The second group on the right has a solid light purple circle on the left, a white circle with a light purple outline in the middle, and a solid light purple circle on the right.

- Retention issues – no room at the top for younger workers
- Transfer of knowledge from retiring older to younger generations



- “Managing multigenerational workforces is an art in itself. Young workers want to make a quick impact, the middle generation needs to believe in the mission, and older employees don’t like ambivalence. Your move.”

Harvard Business School “Working Knowledge” newsletter, April 17, 2006: “Can you manage different generations?”



# HR Perceptions of the Generations

- Traditionalists – loyal and steadfast
- Baby Boomers – hard, eager workers
- Generation X – counted on when situations are fluid or not well defined
- Nexters/Generation Y – evolving, share similarities with Xers



# Generational Workforce Traits

- Traditionalists:

- Plan to stay with organization long term
- Respectful of organizational hierarchy
- Like structure
- Accepting of authority figures in workplace
- Give maximum effort
- Least likely to embrace diversity, be technologically savvy, or like informality

# Baby Boomers



- Give maximum effort
- Accepting of authority figures in workplace
- Results driven
- Plan to stay with organization long term
- Retain what they learn
- Least likely to like informality, respect organizational hierarchy, or need supervision



# GenXers

- Technologically savvy
- Like informality
- Learn quickly
- Seek work/life balance
- Embrace diversity
- Least likely to respect hierarchy, like structure, or plan to stay long term

# GenY/Nexters

A decorative graphic consisting of six circles arranged in two rows. The top row has three circles: a solid light purple circle, an outlined light purple circle, and a solid light purple circle. The bottom row has three circles: a solid light purple circle, an outlined light purple circle, and a solid light purple circle.

- Technologically savvy
- Like informality
- Embrace diversity
- Learn quickly
- Need supervision
- Least likely to respect hierarchy, like structure, or plan to stay long term



# Work Ethic

- Younger generations don't understand what a "real" day of work is
- Employees with seniority may feel "owed" and tend to slack off
- Different definition of dedicated - long hours, professional, punctuality v. quality and quantity of work completed
- Work/life balance issues for younger generation



# Work Ethic: Solutions

- Have clear policies re what is/is not acceptable and expected in workplace
- Good management reduces friction with effective communication, team building
- Modify policies to expand ways employees get job done, i.e., flexible scheduling options, telecommuting
- Designing benefit packages that meet needs of multiple generations

# Appearance/Dress



- Body/facial piercings
- Tattoos
- Casual/revealing clothing
- More prevalent among younger generations
- May be viewed unfavorably by older workers and customers
- May interfere with corporate/public image

# Appearance/Dress



- Implement dress codes:
  - Limiting exposure of body art, piercings
  - Defining appropriate dress in workplace
- Be ready to prove business justification for your code
- Enforce even-handedly
- Accommodate religious beliefs
- Sensitivity training

# Technology Use



- Younger workers more tech savvy
- Use of Twitter, Facebook, LinkedIn, blogs, etc. in workplace
- Use of cell phones – texting, instant messaging
- Used by some businesses as a marketing tool
- Huge potential for abuse

# Technology Misuse



- Excessive use at work
- Improper use – pornography, inappropriate messages, transmitting confidential information, etc.
- Unlawful use – child porn, downloading copyrighted material

# Technology Use - Have a Policy

- Perception that use is “private and confidential”
- Reserve right to access and monitor use
- Expressly ban or limit personal use - be prepared to enforce consistently
- Block access to certain sites
- Identify improper uses – i.e., confidential info, harassing messages or images

# Dealing with Change



- Older workers perceived as reluctant to change, use technology
- Older workers feel shouldn't be challenged because they have paid the price, earned status
- Younger generations - challenge everything as a standard way of approaching a situation

# Dealing with Change



- Communicate important information in multiple ways
  - Generations differ re methods of communications, comfort level with technology
  - Communicating in a variety of ways increases likelihood of receipt in a way comfortable with



# Change

- Be patient with older workers
- Provide training on new technologies
- Allow multiple ways to complete tasks



# Organizational Hierarchy

- Younger generations resist authority and structure, may bypass chain of command
- Older generations - feeling seniority entitles them to specific jobs regardless of qualifications
- Actual/perceived lack of respect



## Hierarchy - Reporting to a Younger Manager

- Issues – feeling that younger worker has paper credentials but lacks real world knowledge/experience
- Problems over management style
- Lack of respect by older worker
- Inability to understand each others problems/concerns



# Solutions

- Manage the conflict by training managers
- Harassment policies and grievance process
- Have and enforce clear chain of command
- Provide team building and mentoring
- Collaborative decision-making
- Good policies and even handed enforcement

# Retention Issues



- Younger generations – impatient for older generations to retire & vacate upper management positions
- Younger generations feel not able to advance because older generations hold high level positions



# Retention - Solutions

- Enhance job experiences through succession planning or career paths
- Develop new skills/responsibilities, challenge in current job
- Provide good pay/benefits that address needs of younger workers (i.e., stock options)



# Transfer of Knowledge Issues

- Retirement of older workers with institutional knowledge
- Develop younger workers to take over
- Implement in/formal knowledge management programs that encourage team based projects that require knowledge sharing
- Encourage managers to implement formal knowledge transfer processes
- Provide mentoring