

FUDDY-DUDDIES IN THE WORKPLACE: THE ISSUES IN DEVELOPING MATURE EMPLOYEES

Tish Matuszek, Troy University

Diane Bandow, Troy University

Terry B. Self, Auburn University

ABSTRACT

In 2010, Google lost an age discrimination court case, *Reid v. Google* (2010), for undisclosed damages. In addition to being called a “fuddy-duddy”, Reid asserted that he was denied important development opportunities and was terminated, because he was not a cultural fit for Google, a company that shows a notable preference for younger employees. This precedent setting case highlights a problem that is epidemic throughout industry. Companies are terminating fuddy-duddies. This paper posits that termination is often unnecessary and the result of poor employee development. At the same time, this paper highlights employee development as an underused organizational resource to protect these valuable employees. The U.S. Bureau of Labor Statistics indicates that 2016 will see fully one-third of the workforce being filled by employees aged 50+ years. While hiring mature workers has strengthened in recent years, there is little to suggest that development opportunities are targeting mature employees; conversely, anecdotal information indicates that development opportunities are decreasing as employees age. A final purpose of this paper is to introduce the fuddy-duddy as a valuable, albeit underdeveloped, employee who is the target of discriminatory practices, thus setting the stage for organizations to find themselves with legal problems. Taken together, such organizational behavior creates a gap in human resource practice as well as a gap in mindful management practices that support the entire organization.

Keywords: older workers, human resource development (HRD), organizational development, human resource management (HRM), age discrimination

INTRODUCTION

The Silver Tsunami is upon us (Schumpeter, 2010). The graying of society has arrived, and no place is that more evident than in the case of Brian Reid, a Google employee who won an age discrimination case against Google after younger employees referred to him as, among other things, a “fuddy-duddy” (*Reid v. Google, 2010*). While not a particularly offensive term for many people, this term captures the preponderance of what we believe about older people in a single phrase. Our picture of someone who is losing physical stamina, sensory functions, intellect, memory, and speed (Bandura, 1997) is pulled together into the term “fuddy-duddy”.

What, exactly, is a “fuddy-duddy”? The Online Slang Dictionary (n.d.) describes a fuddy-duddy as a person who is old or is old in mannerisms; the online Thesaurus (n.d.) defines a fuddy-duddy as someone who is old, a geezer, or a square. Other definitions, such as in dictionary.com (n.d.) elaborates with such words as stuffy, old-fashioned and conservative, and this reflects several other definitions currently available. Not only does this definition refer to age, this also refers to attitude and demeanor attributed to older people. These definitions serve to perpetuate a stereotype of someone who is older than everybody else, set in his or her ways and old-fashioned, as defined by his or her attitude. We further imbue this stereotype with beliefs about attitudes and perceptions that speak to the lessened ability of the older person to stay in touch with the modern world as well as to be cranky on a regular basis, to be unwilling to change, to see a glass half-empty rather than a glass half-full, and to be at a loss when problems require higher cognitive power. Taken together, these combined sets of beliefs paint a dim picture of any older person and, particularly, those who are deemed to be fuddy-duddies. Coupled with the societal messages of decay and decrepitude (Ponzo, 1992), the stage is set to expect poor performance from older employees. They are set up to fail through low expectations and poor development.

Nonetheless, fuddy-duddies are still working, and, they are going to continue working. Recent estimates indicate that the number of employees over the age of 54 who are remaining in the workforce is increasing and will continue to increase for many years to come (Bureau of Labor Statistics [BLS], 2015). By 2022, BLS estimated that one-third of employees age 65-74 will remain in the workplace while 10% of employees over age 75 will remain in the workplace. The number of employees age 65+ will increase more than 50% by 2024 to be 8.2% of the civilian workforce. This change accompanies a notable drop in the number of teens age 16-19 from 47% (2002) to 27% (2022) as part of the workforce (BLS, 2015). The result is that older employees will be needed as employees, because there will be too few people to fill all open positions. This shortage in the workforce is not only in the United States; that is, there are implications around the world based on lower birth rates and the developing consequences. For example, the BBC (2015) noted that Germany passed Japan and now owns the lowest birth rate in the world, and speculation about damage to the economy and related fears about shortages in the labor market are well-founded. The working-age population may depend heavily on more participation by women in the future. One approach to addressing this labor shortage has been to increase migration rates into Germany, but this also requires that a significant skill gap be filled. The low birthrate figures persist despite efforts by the German government to provide childcare support.

This paper provides a review of the literature addressing the aging of the workplace, focused on the bias of ageism that extends outside of the United States and into Europe and Asia, addressing the reasons why older workers choose to remain in the workplace and some of the challenges they face based on traditional stereotypes, culture, and the need for older workers to remain viable employees. Recent court cases from the United States and Canada are provided to focus on implications of ageism in organization. Key areas of human resource management, contributions of older workers, legal issues, and international issues, are addressed. Implications and future research are proposed followed by conclusions.

THE AGEISM ISSUE

Recent court cases from Canada are indicators of human resource (HR) issues that arise from prolonged time in the workforce. Using the courts to verify the incidence of involuntary separation, several cases from Canada resulted in long-term employees, 20-42 years, being given substantial notice, 18-26 months, that they were no longer employable. The employees were ages 65-80s, and one employment law firm anticipated that this is a growing trend (*Filiatrault v. Tri-County Welding Supplies*, 2013 ONSC 3091; *Hussain v. Suzuki Canada Ltd.*, 2011 Carswell Ont 12251 [Ont. S.C.J.]; *Kimball v. Windsor Raceway Inc.*, 2014 ONSC 3286; *Kotecha v. Affinia* 2013 ONSC 4817; Rubin, 2014). These cases indicated the court's belief that organizations have specific responsibilities to multiple stakeholders, rather than only stockholders, and these results mitigate an organization's "employment at will" policy. While mandatory retirement has long been illegal, these cases provide some redress for employees who are judged to be unemployable after significant service to the company. The impact is that the organization must continue paying the employee for a substantial time, in these cases 18-26 months. Thomlinson (2014) noted that the presence of older employees may interfere with attrition and succession planning as well as open the door for human rights complaints if the employee is singled out because of age.

However, organizations have been slow to adapt to changes in the workforce (Paullin, 2014). Few changes have been made to accommodate aging employees in terms of development. (For reference: Currently, employees are considered "old" after 55 years of age and are protected from age discrimination at age 40 and over [Martocchio, 2015; Paullin, 2014; SHRM, 2015a]). Society for Human Resource Management (SHRM, 2015a) reported that slightly more than one-third of employers are preparing for this change by beginning to review internal policies and practices while another 20% indicated that they did not need to change any policies or practices to meet the changing needs of aging workforce. Approximately half of employers did not foresee any problems for their organizations or industries for the talent loss of older employees in the next few years although for the long term, 6-10 years, one-third of HR professionals anticipated problems caused by the talent loss when older workers leave. A minority of HR workers indicated that long-term planning for the loss of talent or potential impact of aging was considered from a strategic perspective. Taken together, these findings indicate that older employees are not a strategic focus for most organizations.

Paullin (2014) emphasized that older workers are a valuable, untapped resource within the national labor pool. She reported that older workers want to work, but many are not confident about finding work. Many are underemployed or unemployed. They are also subject to involuntary decreases in compensation, status, responsibility, and work hours. When older employees were asked why they delayed retirement, they gave several reasons, including: poor economy, inadequate finances, change in employment situation, need for benefits, lack of faith in government systems, higher than expected cost of living, and desire for a comfortable retirement (Employee Retirement Research Institute [ERBI], 2015, pp.1-2). For retirees who expect to return to work, several reasons were reported, including: need to stay active/involved, need money for extras, enjoy work, need to make ends meet, need for benefits, and try a different career (ERBI, 2014, p. 4). Equal Opportunity Commission (2016) reported similar reasons for retirement: health issues, nature of the work, personal demands, leisure, community interests,

and retrenchment or dismissal. As early as 1970, Kreps addressed the income disparity between the people who are currently employed and those who are not currently employed, noting that policy change was imperative to create more equity within the system. The system in place supports a significant wage lag for retirees. Her call for policy change is corroborated by the reasons people give for continuing to work after “retirement age”.

Taken together, these answers indicate that older employees have social as well as financial needs that are unmet without work. Consequently, work must continue into older age. Age appropriate organizational development provides a support function for older employees that allows them to enjoy work while being work-ready as change continues at unprecedented rate throughout industry.

Only a single study was located that addressed the termination of older employees. Gottschalk’s (1982) economic study found that termination of older employees is a function of total turnover costs and the shape of wage and productivity profiles. This study found that these two factors can explain termination behaviors that include termination before an employee voluntarily leaves as well as retention of an employee after productivity falls below average. This is a notable gap in the literature in that the individual’s reasons for leaving or staying are our primary sources of information about job separation. There is a dearth of information about the employers’ reasons for terminating older employees. Presumably, this gap is the impact of legislation that protects employees age 40 and over, and employers do not want to be perceived as ignorant or uncaring of the law. Currently, the median age for all industries is 42.5 years with only 22% of employees are age 55+.

LITERATURE REVIEW

Organizational Development

The purpose of organizational development is to assure a consistent source of work-ready labor for the organization. Ultimately, effective human resource development (HRD) interventions drive business performance and competitive advantage. Although HRD is often characterized as task-focused training, other applications include onboarding, coaching, performance management, counseling/wellness services, career management, leader development, and other change initiatives throughout the organization (Werner & DeSimone, 2009). Because of the wide span of HRD, the issue of poor development takes on added importance when gaps in practice are evident.

The lack of attention to workforce development for older employees becomes particularly important in the face of notable changes in the labor force. Significant trends include demographic changes, loss of middle-skilled jobs, skills gap, eroding physical barriers and increased globalization, and new business models, e.g. crowdsourcing (SHRM, 2015b, p. 1). SHRM (2015b) reported several demographic changes that include (a) greater globalization, (b) multigenerational workplaces because of older workers remaining in the workforce, (c) greater workforce diversity to include more highly educated women, military veterans, and disabled, (d) changing expectations for benefits and flexible work, (e) greater work-life balance, (f) revised immigration laws to accommodate a global workforce, and (g) the talent pool will increase (p. 2).

Tang, Choi, and Goode (2013) provided some additional changes in the United States leading to the changes such as the delay of retirement, greater life expectancy, and improved health; the elimination of mandatory retirement and the changes in Social Security as well as the shift from the guaranteed retirement benefits of defined benefit plans to the savings plan-based defined contribution pension plans; the economic recession; and the erosion of healthcare benefits as well as the increasing costs. The increase of women working and remaining in the workforce longer has also been noted and the massive numbers of baby boomers who were expected to retire have not done so. This suggests many may retire later than expected, especially as more employers drop healthcare plans for retirees because of the increased in costs going forward.

Each of these changes requires substantial organizational development to meet the changing needs of the employees as well as the organization. In the case of *Reid v. Google* (2010), the argument can be made that the cost of developing Reid to continue to be a productive employee who was a good fit with the organization would have been offset by the cost of not developing him. As an economic decision, terminating rather than developing Reid was a poor decision for the Google organization, because the cost of termination was likely higher than the cost of development. Further, this case and similar cases have set the stage for others to follow because they have created precedent.

Diversity Includes Older Workers

While much has been made of globalization and the necessity for cultural intelligence to become more diverse, diversity begins at the work home. Any organization with a large population of older employees enjoys a different culture from the organization that has limited/eliminated the influence of older employees. As employers bemoan the lack of the correct blend of technical skills and soft skills, the contributions of older employees provide potential competitive advantage that is being overlooked. For example, as employees age, tardiness, absenteeism, and counterproductive work behaviors decrease. At the same time, Ng and Feldman (2008) found a decrease in training performance with age. Beire (2015) discussed the difficulty in assessing the true impact of age in cross-sectional studies, and provided a cogent argument for the findings about decreased training performance in older employees. Her arguments align with those presented by Schaie (1994) who argued that intelligence cannot be determined by cross-sectional analyses. Ng and Feldman (2008) did not find any association between age and core task performance or creativity, thus supporting Beire's explanation of decreased training performance. Paullin (2014) provided further findings that no association between age and performance has been uncovered.

Innocenti, Profili, and Sammarra (2013) found that age acts as a negative moderator on the relationship between affective commitment and HR practices. Similarly, they found the same impact on the relationship between job satisfaction and HR practices. They concluded that age was an important factor when assessing the impact of HR development and training practices such as coaching, mentoring, job mobility, and career planning. As people age, such practices are less likely to contribute to either affective commitment or job satisfaction. This study was completed in Italy and serves to extend findings to an international level. They noted one reason for inverse impact from older employees indicated that development opportunities target younger employees and advised organizations to revise development efforts to meet the needs of

changing employees. They called for systems of intergenerational knowledge transfer. Similarly, Ponzo (1992) called for a wellness orientation that supports careers as old people.

Organizational cultures are not usually supportive of older workers. Although younger workers may perceive value in older workers such as better qualifications, more experience, and more knowledge, stereotypes are in place at all levels of the organization and can include HR professionals, CEOs, and line managers. Older workers were people not worth training and developing, as such opportunities need to be offered to younger workers (i.e., Maurer, Barbeite, Weiss, & Lippstreu, 2008). What organizations fail to realize is that older workers who are denied opportunities can have a negative impact on performance and quality of work. Further, younger workers, which include management and leadership, do not understand the negative implications of their stereotypes and perceptions. Ironically, Smith, Smith, and Chris (2010) noted that significant experience frequently allowed older workers a higher level of success in training and learning situation than younger workers in spite of significant variations among workers due to experience, abilities, and learning styles. Older workers were often quicker to learn and more focused than younger workers. Older workers also embraced this type of change more readily than younger workers and were more interested than the younger workers in participating in change processes. Maurer et al. (2008) indicated that stereotypical beliefs must also be addressed because of their potential to be inhibitors. Broad stereotypes in the organization can have an impact on older workers' behavior. For example, perceived unfair differences in treatment by age in training and development may be not only detrimental to older workers and organizational performance, but they can also be used in age discrimination litigation, which can prove very costly for organizations.

Armstrong-Stassen and Stassen (2013) investigated ways to encourage mature nurses to stay in the workforce. They found that older nurses were more likely to remain with the organization when they were satisfied with the organization than those who were dissatisfied with their organization. Training and development were notable factors in the determination of satisfaction. Stay or leave decisions were determined by attitudes about development opportunities and these opportunities influenced satisfaction in a straightforward manner. One interesting finding was that financial incentive is indirectly related to stay decisions in that it is enacted through general satisfaction with the organization.

Human Resource Management

Heenkam and Herrbach (2013) found that among older, low-status workers human resource management (HRM) practices that were associated with job design, respect, and recognition increased organizational commitment. Perceived HRM practices are defined as anticipated practices rather than actual practices, thus moving toward an understanding of psychological contract at work. Other HRM practices such as flexible work were not significant practices in the Netherlands. The researchers suggested that such practices may not make any difference at all. This study also found that job design that includes challenging assignments, special assignments/projects, internal job changes, and special positions for older workers were associated with affective organizational commitment. Taken together, these factors suggested that older workers may retire because they are bored or unchallenged through work, and particularly those employees who are involved in repetitive/routine work. The results also

indicated that individual perceptions of HRM practices are positively associated with organizational commitment as well as job performance. Conversely, HRM practices were not associated with early retirement preference.

Hiring decisions. Fritzsche and Marcus (2013) found that ageist attitudes influence hiring decisions. When there was little or no job experience information available, older workers were evaluated less favorably than young workers. Prejudice against older workers was more likely to manifest as a decision against hiring older employees even when the hiring manager was older than the young employees. However, when the hiring manager had low-age prejudice, that manager may have overcome stereotypical perspectives to make a hiring decision in favor of the older worker. These researchers also found corroboration for Holland's (1997) belief that people choose careers that are a fit with their personalities. Fritzsche and Marcus (2013) suggested that people have an implicit understanding of Holland's theory that impacts not only their own decisions but also decisions about others' careers. Such an experience may make transferring to a new environment become more difficult as workers age. They indicated that late-life job changers might be better served to change within their current organizations rather than trying to move outside of the organization and career field.

Support for older workers. Leggett (2007) took the position that workplace education is an important influence for employees who are moving through middle life. She suggested that occupational health nurses are beneficial to employees as they work through the planning and decision making that accompanies aging in the workplace. She further suggested that a variety of educational materials and programs can be a valuable contribution to older employees. As older employees deal with physical, psychological, and emotional changes, organizations can provide screening programs, group sessions, safety workshops, financial planning seminars, and other outreach events to help employees through the transition that is aging in the workplace. Her message indicated that the organization has a responsibility to the aging workforce.

The myth about wasting training on older workers. Znidarsic (2012) explained that current knowledge improves not only the work skills necessary, it also supports employability. Organizations should not be concerned about an insufficient return on training investments in older workers because most skills have a 3- to 5-year shelf life. In addition, up-to-date knowledge in older workers allows them to demonstrate higher competence and increased motivation, and can enhance retention, commitment, and reduced absenteeism. Again, the need to address stereotypes is critical because they are mostly negative when dealing with older workers; any activities to support learning and development of older workers will not be as effective with negative stereotypes. These perceptions, when coupled with denied access to training and development as well as disparate treatment, can support a claim of age discrimination. As Mauer and Rafuse (2001) explained, an individual could be discouraged from participating in training as well as not being selected to attend training, nominated or informed of opportunities. When a survey of HR executives perpetuated these negative stereotypes and employees over 50 were generally described as averse to change, resistant to learning and new technologies and somewhat inflexible, this encouraged a negative culture. In addition, Greller (2006) noted that gatekeepers who may control the access to development must also be aware of potential discriminatory practices. Niessen, Swarowsky and Leiz, (2009) noted organizations

must also consider that the training and learning environments are not often designed for older learners.

Performance of older workers. Jeske & Roßnagel (2015) focus on addressing preconceptions about aging and propose that typical studies on aging workers do not normally consider experience and personal resources into account and the fact that experienced workers often use their own strategies and resources to complete tasks. These resources are not available to the younger workers due to lack of experience. The authors noted that older workers are not favorably regarded when it comes to the levels of their skills or willingness to learn and instead these negative assessments tend to limit career development and internal mobility as well as training plans and are often focused on encouraging older workers into retirement. The typical view is that learning performance is negatively impacted by age and older workers because of the expected neural decline in the cognitive processes. However, it is a mistake to assume that older workers cannot meet the performance levels of younger workers in training and development even though this view of degradation influences decisions and tends to reinforce inaccurate stereotypes. The authors proposed that the strategies, expertise, and knowledge gained over the years of experience play a significant role in performance but are not usually considered in laboratory studies which typically focus on memory, time, and speed exercises to demonstrate the declining cognitive abilities of older workers. Thus, findings from labs may lead to inaccurate assessments of the learning capabilities of older workers.

Research in Germany (Niessen et al., 2009) with three multinational organizations demonstrated that age was not related to performance issues. This research focused on adaptive self-efficacy prior to organizational change, which was described as the ability to unlearn previous ways of doing things, accomplish new tasks, and assess the fit between the person, the environment and performance. Their research found no negative relationships between age and job performance. The authors point out that organizations frequently offer older employees jobs with established routines and typically these require less learning but the authors propose that this does not encourage learning new tasks because it does not expose the employees to new situations and new information. Niessen et al. (2009) also proposed that negative stereotypes that suggest older workers have less ability and are not willing to learn may reduce the self-efficacy of older workers because they come to accept them personally, which may arguably be related to expectancy theory (Dinibutun, 2012) and support Bandura's (1977) approach to the importance of self-efficacy as it relates to confidence and performance. However, organizational change likely does impact fit and performance perceptions after an organizational change, but not before; one example would be perceptions of job security, and it would apply to all workers, not only older workers. Age discrimination at work also has a negative impact on older workers when they adapt to change. This is because negative concepts of age discrimination affect learning and the development of older workers and they are influenced by stereotypes present in the culture.

Perpetuating negative stereotypes. Maurer et al. (2008) examined stereotypes of aging workers and found that managers, and especially younger managers carry more ageism stereotypes than those involved in personnel positions. Some of the stereotypes include that older people are less capable, less motivated and less inclined to participate in learning and development activities, they are also resistant to training, do not readily accept the introduction of new technology and

show little interest in training and related learning and developmental activities. However, the research noted an important underlying concept of stereotypes in that they may influence the behavior of the older workers themselves and such stereotypes may become ingrained and accepted in the older workers, making them less motivated, disillusioned employees. The stereotype beliefs in older workers may be linked to self-efficacy and concepts about older workers, as they accept the stereotypes of others. This should be of concern to organizations as performance and motivation appear to be growing issues because of the aging workforce in general and especially because efficacy beliefs are linked to stereotypes. Thus, older workers themselves may start acting like they don't want to accept technology, they resist taking on work assignments and they may act like they have diminished abilities even though they would like to keep on working. These negative stereotypes may also hamper memory performance and perpetuate negative perceptions about older workers. The culture of an organization may be unknowingly supporting and perpetuating negative perceptions, and leadership needs to be aware of how older workers are treated, trained, developed, and valued in general to get a clearer understanding about potential stereotypes.

Challenges for human resource professionals. Bing, Kehrhahn, and Short (2003) called for HRD professionals to address several significant issues or risk being marginalized within organizations. They named several challenges for HRD professionals, including: response to multiple stakeholders, measurement of HRD's impact and utility, orientation to the future, focus on problems and outcomes, and achieve status as a profession. Interestingly, these are also critical areas of development for older employees. By working through personal and professional interventions, HRD professionals set the stage for development of other employees. What is not clear from the HRD research literature is whether age diversity is considered as a significant issue within the field. Thomlinson (2014) encouraged employers to rethink performance management systems to meet the needs of aging workers. She reminded them of the duty to accommodate late onset disabilities and to administer performance management consistently across all employees. She encouraged employers to vision the employment relationship for the long-term but not indefinitely.

Fuddy-Duddies and Their Contributions to the Workforce

There are significant advantages to relying on older workers. DeMicco and Reid (1988) provided a list of positive attributes of older workers relative to younger workers, including: "fewer absences, less likely to leave a job, fewer on-the-job injuries, more satisfied with their jobs, less job-related stress, and less likely to need counseling or use drugs" (p. 58). When managers were asked to rate the training performance of older workers, they were rated above average for quality, self-confidence, speed, and appropriateness. DeMicco and Reid (1988) received similar results from food service managers with dependability ratings at the top of the performance criteria; however, during the same study, creativity and adaptability received the two lowest ratings for older workers. These researchers also found moderate levels of satisfaction and high levels of organizational commitment while many of the workers preferred to continue working, at least part-time rather than retiring.

Similar results with respect to performance and trainability were reported by Hashim and Saodah (2014). They found older workers to be competent, high performing and trainable overall,

although older academicians were rated more highly than older administrators. As with Schaie (1994), these researchers found that education and training in competencies were important to maintain outstanding performance.

North (n.d.) reminded us that older workers and younger workers are not in competition; instead, there is a complementary relationship between incomes of different generation workers. As employment among mature workers increases, employment increases among younger workers (National Institutes of Health [NIH], 2014). More people with jobs means a healthier economy for everyone. North (n.d.) recommended creating a culture that accommodates mature employees.

Rogers et al. (2011) contended that the older workforce is a significant factor in the continued success of the U.S. economy. Older employees need challenge as much as other generations, and Boomers are more likely to put work as a primary part of life (Sullivan, Forret, Carraher, & Mainiero, 2009). These authors cautioned managers to be wary of overgeneralization about differences between generations, particularly as they impact specific generations.

Schaie's (1994) longitudinal data collected over 35 years indicated that, while intelligence and cognitive abilities decline over time, the amount of decline is seriously overestimated. As noted earlier, the methods of testing intelligence have been determined to be inaccurate predictors of decline. By studying 5,000 people, age range mean 25 to mean 88, Schaie (1994) determined that perceptual speed begins to fall at age 25 and numeracy falls sharply after age 60. Other abilities, including inductive reasoning, spatial orientation, verbal ability, and verbal memory, continue to grow until middle age. He found linear negative differences between young and old subjects. Further, he found that, after age 67, decline was somewhat below abilities at age 25. He presented evidence that intellectual decline can be remediated with education. His interventions returned 40% of the participants to pre-decline levels. Clearly cognitive decline and memory loss are not inevitable results of aging among working age people.

Finally, NIH (2014), an exemplary employer for people over age 50, indicated that mature employees share several personality traits that contribute to a positive and productive environment. The list of traits, including dedication, focused, good listeners, pride in quality, and strong communication skills, echo the findings of other researchers. Mature workers contribute to reduced labor costs through part-time employment, decreased absence, decreased turnover, and improved efficiency. As with other organizations, NIH argued for a cultural shift that is supportive of older employees.

LEGAL IMPLICATIONS OF AGE DISCRIMINATION IN THE UNITED STATES

As noted, Reid (*Reid v Google, Inc.*, 2010), as an older employee, is not alone when it comes to age discrimination. In 2015, the Equal Employment Opportunity Commission (EEOC) received 20,144 charges of age discrimination (U.S. EEOC, 2016a). This equates to over 55 complaints per day. The EEOC, which was created as part of the Equal Employment Opportunity Act of 1972 (Bennett-Alexander & Hartman, 2007; Martocchio, 2015), exercised its authority under this Act to investigate and reconcile these charges of illegal discrimination. Resolutions for these charges ranged in scope from settlements to withdrawals with benefits; from administrative

closures to reasonable or unreasonable cause; from successful to unsuccessful conciliation; and from merit resolutions to monetary benefits that totaled \$99.1 million, excluding monetary benefits obtained through litigation (U.S. EEOC, 2016b).

Legal Protection against Ageism

The EEOC, as outlined on its Web site dealing with age discrimination, clearly states that age discrimination occurs when an organization or its representatives treat employees or applicants less favorably because they are 40 years old or older (U.S. EEOC, n.d.). There are a number of laws and regulations in place to help ensure that older workers are not denied such things as training, equitable pay, job assignments, promotions, fringe benefits, and other conditions of employment afforded to younger employees (U.S. Department of Labor, n.d., U.S. EEOC, n.d.). Some of these include the Age Discrimination in Employment Act of 1967 (as amended in 1978, 1986, and 1990), the Age Discrimination Act of 1975 (as amended in 1978 and 1986), the U.S. Constitution Equal Protection Clause contained in the Fourteenth Amendment, the Civil Rights Act of 1871 (§ 1983), Older Americans Act of 1965 (OAA), the Job Training Partnership Act of 1982; and the Workforce Investment Act of 1998 (§ 188) (James, McKechnie, Swanberg, & Beson, 2013; Tauro, 2014; U.S. Department of Labor, n.d.). Following is a brief summary of these laws:

Age Discrimination in Employment Act (ADEA). As amended, this law applies to all employers with 20 or more employees, including federal, state, and local governments (Lewis, 2013). It protects individuals who are age 40 or older from illegal discrimination due to their age (Martocchio, 2015) and encourages their employment based on their ability rather than their age (Pub. L. 90-202 § 2, 1967, 81 Stat. 602). Not only does the law protect the older workers from ageism, but it also makes it illegal for employers to retaliate against these individuals if they complain about, file a charge of discrimination, or participate in employment investigations or lawsuits (U.S. EEOC, 2016, February 18).

Age Discrimination Act. Unlike the ADEA, which restricts claims to those who are 40 or older, this law applies to individuals of all ages. It prohibits age discrimination in all educational programs, which are provided by all institutions that receive federal funding (Pub. L. 94-135 § 302, 1975, Nov. 28, 1975, 89 Stat. 728; U.S. Department of Education, 2015).

U.S. Constitution's Equal Protection Clause. Contained in the Fourteenth Amendment, the Equal Protection Clause has been interpreted by the U.S. Supreme Court to protect individuals from age discrimination by government representatives (Tauro, 2014).

Civil Rights Act of 1871 (42 U.S. C. 1983). The Civil Rights Act of 1871 (§ 1983), which ensures U.S. citizens and others within its jurisdiction of the rights, privileges, and/or immunities protected by the U.S. Constitution and laws, was amended in 1979 to permit civil suits. In other words, protected individuals who are discriminated against can file “civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person” who deprives them of their guaranteed rights (Pub. L. 96-170, § 1, 1979, 93 Stat. 1284).

Older Americans Act of 1965. The OAA authorizes numerous services to older individuals and their caregivers ranging from social to nutrition. OAA services also include community service employment for low-income seniors; training, research, and demonstration activities in the area of aging; and elder rights protection activities (U.S. Department of Health and Human Services, n.d.).

Job Training Partnership Act of 1982. This law seeks to enhance the nation's workforce by preparing unskilled adults, as well as, youth to enter the labor force. A major focus of the Act includes enhancing the job skills of displaced workers and those with obsolete skills (Congressional Research Service, n.d.). When organizations downsize, they often terminate employment of older workers by claiming these workers have obsolete skills.

Workforce Investment Act of 1998 (§ 188). The Workforce Investment Act (WIA), as amended, prohibits age discrimination against employees, applicants, and participants in WIA Title I programs and activities (U.S. Department of Labor, n.d.). WIA Title I programs are part of a federally funded development system, which helps finance career centers that give employers and job seekers access to various employment and training services. Title I focuses on adults, displaced workers, and youth (Pub. L. 105-220, § 121, Aug. 7, 1998, 112 Stat. 936).

Legal Confusion and Common Sense

As seen from the summaries, laws against ageism can be confusing. Different laws apply in different situations, and it sometimes takes legal guidance, or even the U.S. Supreme Court, to determine which laws are applicable in various cases (Lewis, 2013; Tauro, 2014). However, one thing is clear - laws against ageism are not new. They have been around for decades; yet, organizations persist in violating them, costing unnecessary dollars in damages and other legal fees to reach settlements.

Even without legal counsel, organizations can apply common sense to avoid wasting money on age discrimination lawsuits and gaining unfavorable publicity: Treat all employees, regardless of age, the same in terms of training, equitable pay, job assignments, promotions, fringe benefits, and other conditions of employment (U.S. Department of Labor, n.d.; U.S. EEOC, n.d.).

INTERNATIONAL FUDDY-DUDDY CHALLENGES

Issues with older workers are not isolated to the United States or North America. Not only are there shrinking labor forces in numerous countries, but there are also barriers to hiring older workers full time. Some of these may be related to mandatory retirement age and other in-country issues. Heywood, Jirjahn, and Tsertsvardze (2010) identified several issues that must be resolved in Germany about hiring and employing older workers. This research provided strong evidence of negative predictors for hiring older workers but confirmed the role of skills to bind workers to firms, thus supporting the need for training regardless of age. However, structures in organizations are more often benefiting the hiring of younger workers. There is, indeed, a reduced likelihood of hiring older workers because of mandates. This was also evidenced earlier by the Canadian legal cases which show a trend toward mitigating the employment at will policy. As they currently stand, many such laws may negatively impact long-term employment relationships and suggest that policymakers must reconsider age-based termination, because this

will limit employment opportunities for older workers and produce less hiring of older workers. This may result in many positions being unfilled.

Issues that prevent or discourage hiring older workers are only part of the problem. The shrinking labor force is an ongoing issue in many countries as well. An example can be found in the One-Child Policy in China (Bloomberg, 2015). This policy is now 36 years old and is the cause of the third straight yearly decline in the labor force. The working age population is in a steep decline and corresponds with the slowing economic growth. Although a smaller labor pool helps limit those who are jobless, this also can contribute to the erosion of competitiveness, manufacturing, and drives up labor costs. This is not unlike the outcomes already noted in Japan and Germany, where the aging population is increasing at an accelerated rate in unprepared countries (BBC, 2015). Similar conditions have developed globally as fewer babies are born due to birth control.

IMPLICATIONS AND FUTURE RESEARCH

Missing from this body of knowledge about mature employees, aka fuddy-duddies, are indicators that systematic and valid development of older employees is taking place throughout organizations. Similarly, the absence of empirical as well anecdotal information suggests that development for older employees is an underused tactic to maintain a healthy and high performing workforce. Taken together, this body of knowledge challenges several of our beliefs about mature employees. Historically, older employees, the fuddy-duddies, have been cash cows for organizations in terms of development. After being accepted in an organization as an “old head”, development is often completed for these employees. Career paths have been set in stone and little or no mentoring has taken place.

For example, HR must recognize the issues related to providing training for fuddy-duddies. This can include an examination perhaps restructuring of the performance management system, dealing with diversity issues that may arise as a normal part of a multigenerational workforce; examining the training systems to determine if older workers can succeed in the current training systems, and recommend changes if needed that support cognitive abilities and learning in general. Training policies must be reviewed and specifically address limits on age regardless of the intent, because of the changing environment that now finds older workers in the workplace, seeking work, and being successful in organizations. This may require rethinking current concepts of long-term employment and employee relationships, whether the culture of the organization supports older workers or discourages them even if it is not intentional. Stereotypes may be so ingrained that they are second nature, and stereotyping for any segment of the workforce not only can cause morale and performance issues, but may contribute to inappropriate workplace practices. Organizations should consider competitive advantage possible with older workers and leverage the knowledge and abilities available to encourage high-performance, mentor younger workers, and explore possibilities available with knowledge management, sharing information, and using the older workers to their full capabilities. For these older workers, understanding their expectations and needs, priorities and interests, and aligning these with organizational goals and work assignments can provide a great deal of job satisfaction for the employees and higher performance for the organization.

Future research in any area related to older workers is desperately needed, as organizations are using older workers in some capacity; this shows no signs of abating, as many people are enjoying longer lifespans and feel the need to be engaged in meaningful work. At a minimum, determining current perceptions of older workers in organizations based on CEO and HR feedback may provide a clearer picture of current practices, policies, and actual numbers of employees in certain age groups. Beyond this, research focused on training programs and policies to support older workers, organizational culture investigations looking at how older workers are treated, and existing organizationally-based stereotypes, can provide starting points to pursue more research about the employees that will be available in the marketplace who used to be considered "old".

CONCLUSIONS

Organizations must reduce their exposure for legal liability based on their hiring, treatment, and training of older workers. This is not only necessary for HR but is also critically important for leadership, because the organizational culture, prevailing stereotypes, policies, procedures, and practices may be fodder for discrimination claims and litigation. What is troubling is that some in the organizations either are not aware of issues, or they are not aware of the legal ramifications and may pursue the status quo as illustrated by Google's activities. Whether out of naïveté or ignorance, employees and organizations would be wise to review and compare the potential legal costs versus policies focused on supporting older workers throughout the enterprise. Research is needed to provide a foundation for not only hiring these older workers but being able to develop and support them so they can become an asset to the organization regardless of age.

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