

September 17, 2013 /**24-7PressRelease**/ -- Avoiding age discrimination in the post-recession workplace

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The Great Recession saw waves of layoffs that were unprecedented in modern American history. For many struggling companies, laying off employees was the only way to stay afloat while the economy sank. Even employees who had been at their jobs for years -- or even decades -- were not immune.

Years later, a number of these older workers are still trying to get their careers back on track. Many say that it has been difficult to find openings that match their qualifications. Others worry that employers are passing them over in favor of younger applicants.

This concern is more than just anecdotal. According to the Bureau of Labor Statistics, the reemployment rate for laid off workers between the ages of 55 and 64 is 47 percent. By contrast, 62 percent of workers between the ages of 20 and 54 have been able to find new jobs. What's more, approximately two-thirds of older workers who found new employment had to take a cut in pay.

What is age discrimination?

Employers who are hiring in this climate need to be careful to avoid age discrimination. Age discrimination is illegal under both federal and Massachusetts state law and can expose employers to costly litigation and burdensome public relations problems.

It is unlawful for employers to take any adverse employment action against an employee or job applicant because he or she is over age 40. The term "adverse employment action" includes refusing to hire, discharging, laying off, refusing to promote, paying lower wages or anything else that negatively and unfairly affects a person's employment. Generally, federal age discrimination law applies to employers with at least 20 employees, while Massachusetts state law applies to employers with six or more employees.

Avoiding age discrimination

Employers do not necessarily commit employment discrimination simply because they choose to hire a younger applicant or lay off an older employee while retaining a younger one. However, there is a risk that discrimination could unintentionally play a role in these decisions.

There are some strategies employers can use to avoid age discrimination, including the following tips:-Train all decision makers: Anyone who has responsibility for hiring, firing or promoting should be trained to understand relevant employment laws, including how to identify and avoid age discrimination.

-Avoid stereotypes: A lot of age discrimination occurs because employers have preconceived notions about what older workers can and cannot do, and what they would expect in terms of compensation. Employers should ensure that all decisions are based on the unique characteristics of the individual employee or applicant.

-Communicate effectively: Employers should be careful when explaining their decisions to employees or applicants. They should avoid using language that makes it seem like the decision was age-based.

While these strategies can be helpful, it is always advisable to consult with an experienced employment law attorney. The attorney can review planned hiring or layoff actions to ensure they comply with anti-discrimination laws and can defend the employer if a discrimination claim arises.