

2023

California

STATE HR ADVOCACY &
LEGISLATIVE CONFERENCE



CALIFORNIA
STATE COUNCIL OF SHRM





Five Generations at Work

Legal and HR challenges of a
multigenerational workforce

2023

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Alex Stathopoulos defends employers in complex wage and hour class actions and high-stakes single plaintiff cases and provides creative and practical counseling on a wide range of employment issues including new and developing areas of the law.

A thought leader in the employment law space, Alex is active on the Executive Committee for the California Lawyers Association (CLA) Labor and Employment Section and is an Editor-in-Chief of the CLA Labor & Employment Law Review. Alex also serves on the Executive Committee for the Bar Association of San Francisco (BASF) Labor and Employment Law Section.

In her counseling practice, Alex provides bespoke counseling advice to management, designs workplace policies and procedures, and offers creative and practical solutions to address a wide range of employment issues including new and developing areas of the law.





Deyoncé
@deelalz

Another baby boomer at work looked at the tattoo on my arm and said "you know those are permanent right" and i said no



Vichy Thought Leader
@i_zzzzzz

Follow

Maybe if millennials spent less on brunch and more on particle physics research they could travel to 1974 and afford a house. Just a thought



Saucy Kensington
@Book_Krazy

Follow

Boss: This is the third time you've been late for work this week. Do you know what that means?

Me: That it's only Wednesday

6:19 PM - 7 May 2014

5,574 7,582

Agenda

- Five Generations at Work
- Legal Issues
- Workplace Scenarios
- HR Best Practices & Strategic Planning Considerations
- Key Takeaways



Objectives

- Identify how different generations view work.
- Identify legal risks arising from tensions and misunderstandings between different generations in the workforce.
- Prevent and respond to age-based stereotyping and bullying.
- Apply best practices for fostering understanding between different generations in the workforce.

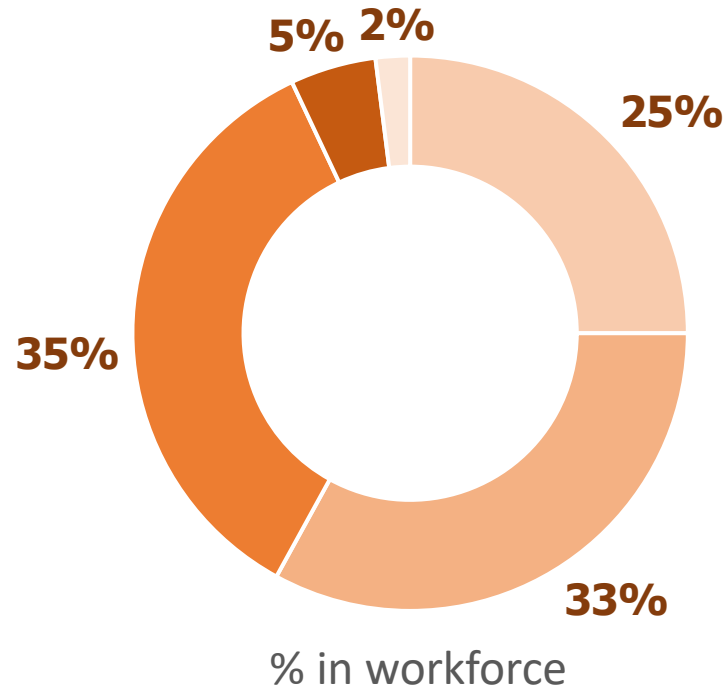
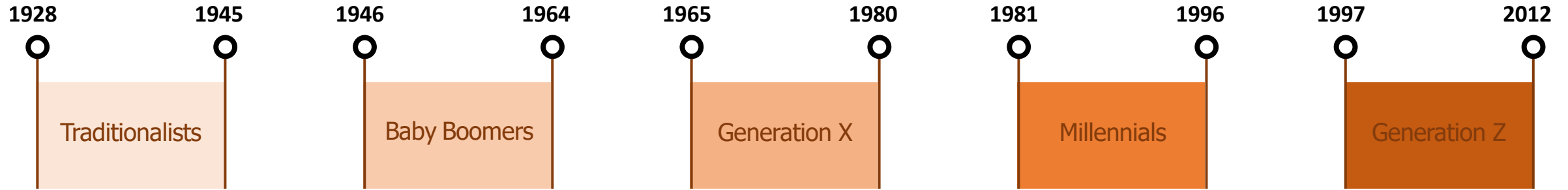


Five Generations at Work

Who is my workforce?



Five Generations in the Workforce



Traditionalists

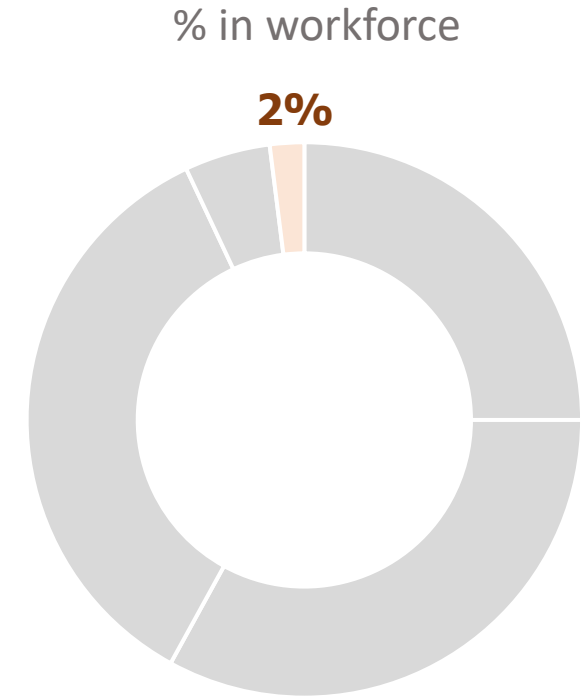
Age:
78 to 99

Formative Years:
Great Depression, WWII

Values: stability, work as a privilege, age equals seniority, advancing through hierarchy

Technology:
radio and movies

Key Worker Traits:
disciplined, diligent,
obedient, loyal



Baby Boomers

Age:
59 to 77

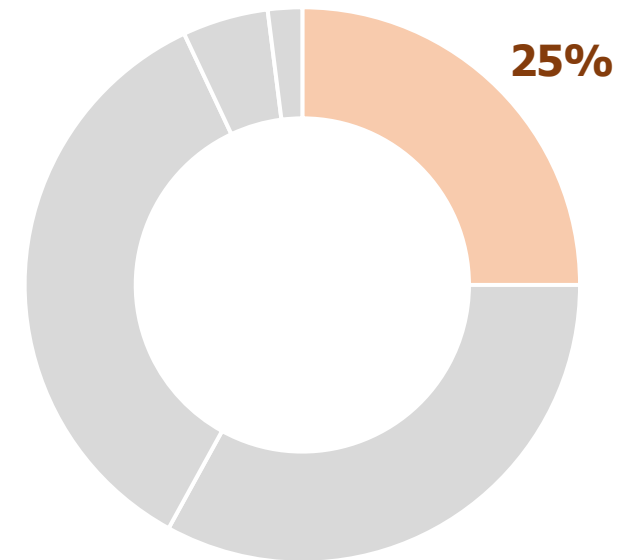
Formative Years:
Cold War, Vietnam War, Civil Rights Movement, Watergate

Values: paying your dues, corner offices, reserved parking spaces, titles

Technology:
tape decks, VCRs

Key Worker Traits:
willing to make sacrifices, long hours, unilateral leadership style (inform team of decisions, not involving them in decision making), like direction but not constant feedback, challenge authority

% in workforce



Test Your Knowledge

How many workers over age 45 have reported seeing or experiencing age-based discrimination in the workplace?

A

35%

B

42%

C

61%

D

84%

Test Your Knowledge

How many Baby Boomers say age discrimination is holding them back from getting a job?

A

45%

B

53%

C

72%

D

81%

Generation X

Age:
43 to 58

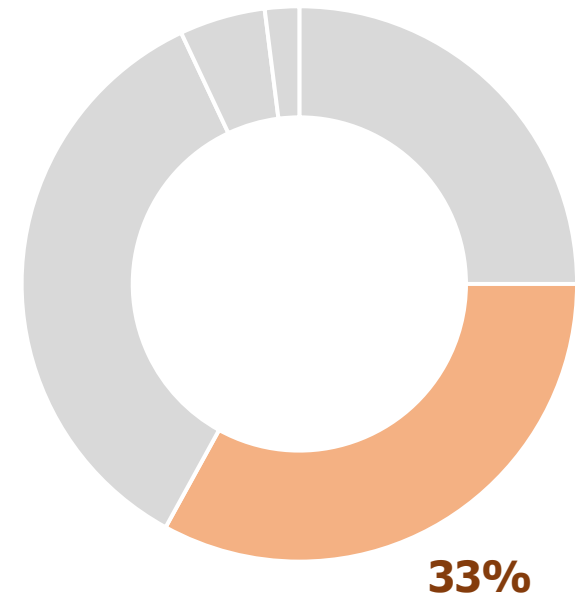
Formative Years:
Berlin Wall, Operation Desert
Storm, AIDS Epidemic

Values: pragmatic, entrepreneurial,
and quick to embrace diversity

Technology:
personal computers, internet,
video games, mobile phones

Key Worker Traits:
resourceful, independent, coaching
leadership style (including teams in decision-
making), unimpressed by authority, see
change as an opportunity, quick to move on
if an employer does not meet needs

% in workforce



Millennials

Age:
27 to 42

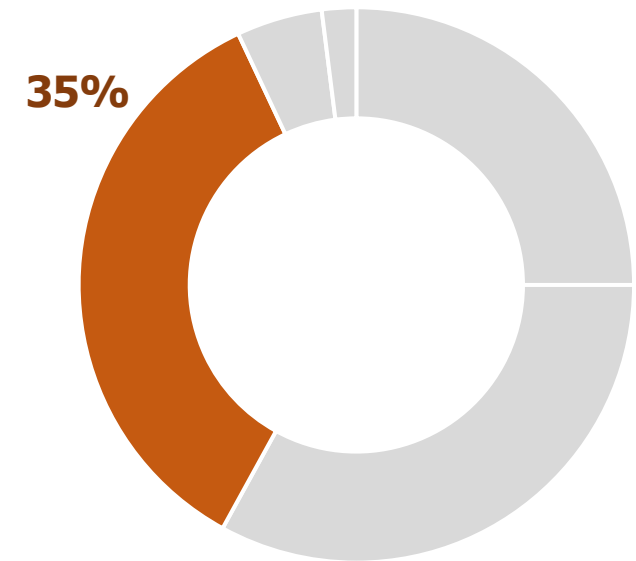
Formative Years:
Columbine, 9/11, Enron,
Afghanistan & Iraq Wars

Values: structure, happiness, work-life balance,
transparency, feedback, fairness

Technology:
phones, iPods, Google,
social media

Key Worker Traits:
imaginative, technologically savvy, team
players, socially conscious, need clear
descriptions for tasks or projects, unafraid to
question authority, respect competent
authority figures, fluid workstyle

% in workforce



Test Your Knowledge

Millennials intending to stay with an employer more than 5 years are more than twice as likely to have this.

A

remote
work option

B

a mentor

C

a bring-your-pet-to-work
policy

D

competitive
childcare benefits

68% versus 32%

Source: <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/About-Deloitte/gx-millennial-survey-2016-exec-summary.pdf>

Generation Z

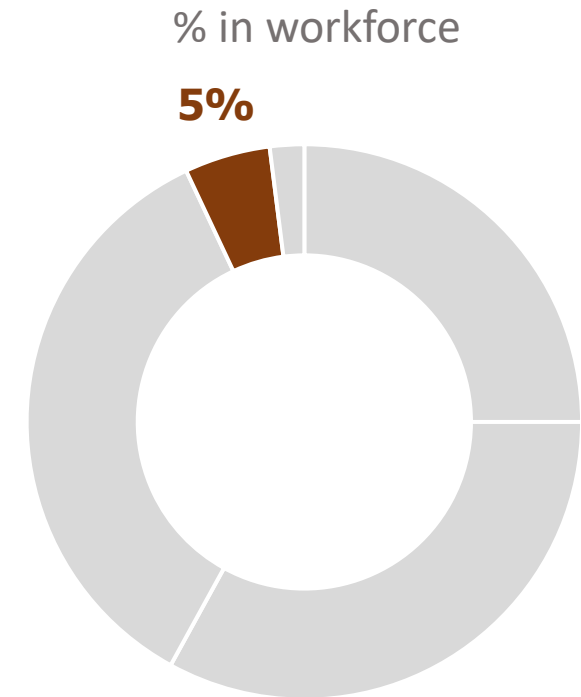
Age:
11 to 26

Formative Years:
Great Recession

Values: financial stability, opportunity for growth, flexible work arrangements, formal training, expect answers immediately

Technology:
instant access at a young age

Key Worker Traits:
hyper savvy technology users, expect immediate answers, innovative, creative, respect authority but seek engagement



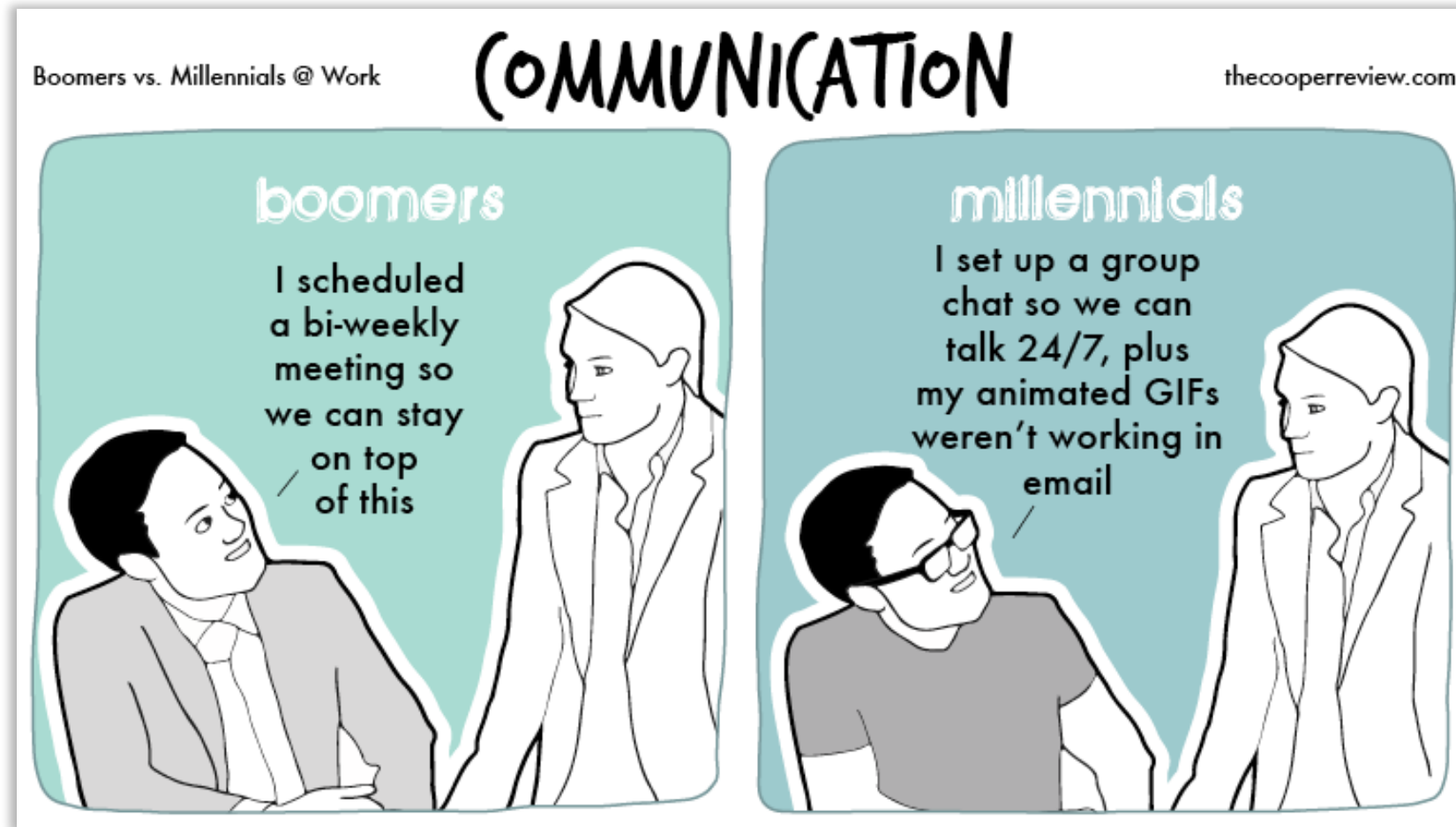
Different Worldviews

What percent of Millennials see themselves with their current employers ten years from now? **16%**

What percent of Gen Z say they would stay with one employer for ten years? **61%**

Sources: <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/About-Deloitte/gx-millennial-survey-2016-exec-summary.pdf>; <https://hrexecutive.com/generation-z-image-problem/>

So What?



So What?



So What?

- Attracting and retaining talent
- Building relationships
- Managing expectations
- Reducing exposure
- Increasing workplace satisfaction
- Investing in the future



Legal Issues

What laws drive policy and practices to consider for a multigenerational workforce?

Federal Law:

Age Discrimination in Employment Act ("ADEA")

- Federal law prohibits most employers with 20+ employees from discriminating against applicants or employees who are 40 years or older based on age.
- To prove discriminatory treatment based on age in court, a person must show:
 1. The employer is covered by the ADEA.
 2. The person was an employee or applicant of the employer.
 3. The person suffered some adverse employment action (e.g., actual or constructive discharge, refusal to hire or promote, less pay).
 4. The person was at least 40 years old at the time of the adverse action.
 5. **The person's age was a substantial motivating reason for the adverse action.**
 6. The employer's conduct was a substantial factor in causing the person harm.

California Law:

The Fair Employment and Housing Act ("FEHA")

- California law also prohibits most employers with 5+ employees from discriminating against applicants or employees who are 40 years or older based on age.
- Test Your Knowledge: Which job posting puts you more at risk of an age discrimination claim?
 - Content Manager. Will build brand identity and online presence. Must be innovative and enthusiastic with **at least** 5 years of relevant experience.
 - Content Manager. Will build brand identity and online presence. Must be innovative and enthusiastic with **no more than** 5 years of relevant experience.

Test Your Knowledge

At 24 years old, Mindy is by far the youngest worker on her California sales team at SHRM Co. Christina, who is 48 years old, recently became Mindy's manager. Immediately, Christina begins criticizing Mindy's work much more harshly than she does anyone else's work. Mindy had never received negative feedback before. Christina also makes several comments to Mindy and the team about how "lazy" and "arrogant" Millennials are. At the end of the first month, Christina tells Mindy she is being let go for performance. **Have Christina's actions put her employer at risk for an age discrimination claim?**

Test Your Knowledge

Answer: No, only workers age 40+ are protected by the ADEA.

Christina's actions might not have been unlawful, but how might they still be harmful?

Test Your Knowledge

Christina (48 years old) is also now managing Jeff, who is the only Baby Boomer on the SHRM Co California sales team. Christina makes several comments in front of Jeff and his colleagues about how she thinks "Boomers" struggle with new technology. One day in the lunchroom, she asks Jeff when he's planning to retire. Later, Jeff comments about how people spend too much time on their smartphones and Christina jokes "OK, Boomer!" After three months, she demotes Jeff and replaces him with Mark, who is 42 years old. **Have Christina's actions put her employer at risk for an age discrimination claim?**

Test Your Knowledge

Answer: Yes, Jeff is over the age of 40, and Christina's comments may be used as evidence of discriminatory motive. Just because Christina is also over the age of 40 does not mean she cannot discriminate based on age.

So... Can We Make Fun of Employees Under 40?



California Law:

Anti-Workplace Bullying Statute

- Workplace bullying is technically not illegal in California.
- But, as of January 1, 2021, employers with 5+ employees must include "prevention of abusive conduct" as a component of mandatory sexual harassment training.
- "Abusive conduct" is "conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests."
- Abusive conduct may include:
 - repeated verbal abuse (e.g., derogatory remarks, insults, and epithets);
 - verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; or
 - the gratuitous sabotage or undermining of a person's work performance.
- Abusive conduct is not a single act unless it is especially severe and egregious.

Workplace Scenarios

In What Other Ways Do Generational Differences Play Out at Work?

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Hiring

Your business needs to hire for a new position that will involve creating an innovative product using a large team of developers. Your Recruiting Manager drafts a job posting that says SHRM Co. is looking for someone who is "a tech ninja – eager, energetic, and full of new ideas."

What problems might this cause for your hiring goals?

Training

Baby Boomer Pam recently started caring for her sick mother at home. Her much younger boss Lisa notices Pam has been distracted at work. In their next 1:1, Lisa says Pam seems to be "slowing down" and asks her if she needs to make any adjustments to Pam's job duties.

What might be some of the legal risks in Lisa's statement?

What can HR do to head off statements like this?

Policies

Your business is planning a reduction in force and proposes laying off workers based on several factors, including those workers with high salaries who have just average performance.

What are the potential risks in this plan that you can recommend the business consider?

What can the business do to mitigate those risks?

Benefits

Jennifer, who is a Gen Xer, congratulates her direct report Brianna on her pregnancy before Brianna starts a 6-month paid leave provided by SHRM Co. Jennifer comments, "You don't even realize how good you have it. When I had my son, I took three weeks off and then had to get back to work—and I didn't get a fancy lactation room either, I had to pump in a public bathroom!"

What kind of HR and legal issues might this cause?

How can HR ensure consistent messaging for benefits that prior generations did not have?

HR Best Practices and Strategic Planning Considerations

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HR Best Practices and Strategic Planning Considerations

- **Mentorship.** Create mentorship programs that facilitate intergenerational communication and reinforce each generation's strengths in the workplace.
- **Training Managers.** Train managers who give job evaluations and feedback to recognize generational differences and adapt their performance evaluation and communication styles if necessary.
- **Training Workforces.** Train workers to recognize and respect generational differences and to take care not to stereotype or label.
- **Flexibility.** Create flexible work arrangements, e.g., fewer hours for less pay, remote or hybrid work, varied career track progressions, gradual on-ramping.

HR Best Practices and Strategic Planning Considerations, Continued

- **Transparency.** Establish clear guidelines for compensation and promotion.
- **Regular Communication.** Create avenues for online or in-person communication, such as "town hall" style meetings or internal blogs as well as two-way feedback loops.
- **Technology.** Use different methods of presenting information (e.g., PowerPoints, apps) and train workers how to use them.
- **Social Impact.** Find ways to add value to your organization outside the job.

HR Best Practices and Strategic Planning Considerations, Continued

- **Update Hiring Policies and Practices:**
- Eliminate requests for age, birth dates or graduation dates from applications.
- When using pictures of workers in presentations or company materials, use various ages.
- Train hiring managers not to use phrases like "young," "fresh," or "recent graduate."
- **Check Your Benefits.** Make sure your benefits meet the needs of all generations of workers.



Key Takeaways

Key Takeaways

- Generational differences can add value to the workplace if employers utilize each generation's strengths. It is important that the individuals who make up a workforce recognize this value.
- Bridging the gap between communication styles and expectations of different generations is essential to fostering a collaborative, productive workforce.
- Be vigilant in performance review and compensation processes to ensure generational differences are not causing inaccurate or unfair results.
- Educating your workforce can help avoid age bias and labels. Even where not unlawful, such conduct can lower morale and send valuable talent elsewhere. And where it is unlawful, it can lead to costly lawsuits that cause both financial and reputational harm.

Boomers vs. Millennials @ Work

COMPLAINING

thecooperreview.com

boomers

I really think
this is something
HR should look
into...



millennials

I'm gonna post
this on YouTube.
THAT will get
their attention.

(later fired)



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Thank You

