

CREATING A WORKPLACE THAT WORKS FOR EVERYONE
***PRACTICAL/LEGAL SOLUTIONS FOR ATTRACTING AND RETAINING
INCLUSIVE WORKFORCES***

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OVERVIEW

- Workplace Flexibility
- Generational Differences
- Marijuana

WHY WORKPLACE FLEXIBILITY?

- Retaining skilled workers or highly trained workers that are difficult to replace. Economy at full employment – tough to find skilled employees. Millennials like to change jobs and move around.
- Recruit a more diverse and inclusive workforce – important particularly to working mothers.
- Recruit from a broader variety of talent rather than just those that are able to work your company's set hours.
- Rigid work culture encourages homogeneous workforce
- Building loyalty and morale with grateful workforce

WHAT FLEXIBILITY?

- Different workers need different schedules
 - Women/ Working parents
 - Disabled
 - Employees nearing retirement – succession and reduced schedule
 - Young Professionals – flex-time or compressed schedule

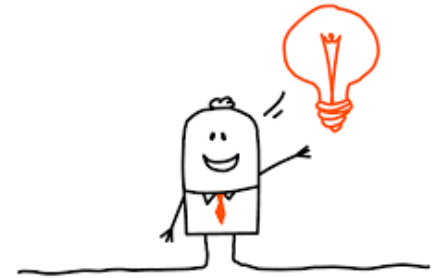


FLEXIBILITY ALREADY LEGALLY REQUIRED IN THESE INSTANCES...

- FMLA
 - Reduced Schedule / Alternative Position
 - Leave
- ADA
 - Reasonable accommodation could be Flex time, Time away, Alternative employment position
- Worker's Compensation
 - Light Duty / Alternative employment
- Pregnancy / Nursing Mother
 - Lactation/ Nursing Mother
 - Numerous Accommodations
- So why not make it available to everyone and reduce administrative efforts?

SOLUTIONS / IDEAS

- Variable work schedules
- Part-Time
- Telecommuniting/Working Remotely
- Compressed Workweek
- Job Share
- Survey your employees and find out!



WHAT DO EMPLOYEES NEED?

- Help with family
 - Childcare facility
 - Childcare or Elder care referral
 - Childcare for sick children
 - Flexible Spending Accounts
- Help with managing life
 - EAP
 - Courier for running errands
 - Basic health services on-site
 - On-site clinics
 - Various services offered during provided lunch such as retirement planning, budgeting, wellness



WHAT DO EMPLOYEES NEED?

- Time-off benefits
 - Consider different paid-time off packages that are more advantageous to certain classes of employees (disabled/pregnant/caregiving)
 - Vacation day purchases (reduction in pay for more vacation days)
 - Phase-in return to work programs
- Student loan repayment
 - Payment for continuing education
 - Huge benefit for millennials laden with student debt

GENERATIONAL DIFFERENCES

- Silent Generation (1928-1945)
- Baby Boomers (1946-1964)
- Generation X (1965-1980)
- Xennials (1975-1985)
- Millennials (1981-1996)
- Gen Z (1995-2012)
- Gen Alpha (2013-2025)

WHO ARE THE DIFFERENT GENERATIONS?



TRADS
1928-1945

Traditionalists:
Value Authority and a top-down management approach; hard working; make do or do without



BOOMERS
1946-1964

Baby Boomers:
Expect some degree of deference to their opinions; workaholics



GEN X
1965-1980

GEN X:
Comfortable with authority; will work as hard as it is needed; importance of work life balance



GEN Y
1981-1996

GEN Y:
Respect must be earned; technologically savvy; goal and achievement oriented



GEN Z
1995-2012

GEN Z:
Many traits still to emerge; Digital natives; fast decision makers; highly connected

GENERALLY

- Beware of Stereotypes
 - Millennials are the “me” generation and have high expectations
 - Generation X most demanding age group in the workplace
- Different generations are good for a workforce in that they provide a team with diverse perspectives
- Employers should strive to break down generational silos and bring together staff members who have complementary skills and diverse perspectives
 - Structure project teams
 - Consider team-building events and ask employees from various demographic groups to plan the events
 - Explore mentoring relationships such as reverse mentoring in addition to traditional mentoring

TWO STUDIES

- Rebecca Hastings, “Generational Differences Exist, But Beware of Stereotypes,” SHRM, October 18, 2012 (referencing independent study conducted by Dimensional Research of 1533 HR leaders in U.S., Australia, Germany, France, Netherlands and U.K.)
- “The Key to Managing a Multigenerational Team: Don’t Overthink It,” Roberthalf.com (July 3, 2017) (research performed by Robert Half wherein the company interviewed CFOs about workplace differences among the generations)



FIRST STUDY

- Baby Boomers
 - Much less likely to make requests of employers
- Gen X most likely to ask for
 - Higher pay
 - Hiring bonus
 - Higher job title
- Millennial
 - Training / Mentors
 - Job Perks
 - Flexible schedules

FIRST STUDY

- Communication Preferences
 - Face-to-Face
 - Email/Text
 - Phone
- Length of employment
 - 55 and older – at least 3 years
 - 25-34 – just until you’ve learned enough to move on to new position



SECOND STUDY

- CFOs were asked about the generational differences in
 - Communication skills
 - Ability to adapt and change
 - Technical abilities
- Communications
 - Baby boomers more reserved
 - Gen Xers favor a control and command style
 - Gen Yers prefer a more collaborative approach to communication
 - Gen Z prized in-person interactions

SECOND STUDY

- Change Management
 - Baby Boomers are cautious regarding change
 - Gen X and Y tend to see change as a vehicle for new opportunities
 - Gen Zers are accustomed to change and anticipate it in the workplace
- Technical skills
 - Baby Boomers and Gen Xers value instructor-lead courses or self-learning tools
 - Millennials prefer collaborative and technology centric options

IDEAS/RECOMMENDATIONS

- Employers should understand traditional means of developing a skilled workforce could result in losing prized young professionals.
- Discard the notion that employees should “work their way up.”
- Consider implementing different progressions for those employees who excel rather than same path for all.
- It is also important to devise a way to provide Generation Y and Zers with ownership in projects, opportunities to lead and excel, training and collaboration in addition to expecting them to support the organization in the background.
- Finally, consider having them perform all of the social media and other networking aspects for the employer. They should be involved in that process and, in fact, they can do it better.

BABY BOOMERS

- Baby Boomers not leaving workforce
 - Working well past traditional retirement age (healthier and financial difficulties)
 - Need succession planning
 - Phased retirement plans
 - Age discrimination claims on the rise – 2018 EEOC Report
- “Brain Drain”
 - But those Boomers that are leaving – 10,000 every day – are mostly highly skilled and experienced
 - How do you replace that?



LEGALIZATION OF MARIJUANA

- As of early 2019, 33 states and Washington, D.C. have legalized medical marijuana use
- 10 states have approved it for medical and recreational use
- South Carolina medical marijuana twice proposed in legislative session

FOUR OF THE MORE PROMINENT ISSUES

- Reasonable Accommodations Under the ADA
- Lingering Traces in Drug Testing
- Conflict between State and Federal Marijuana Laws
- Creating Workable Drug-Free Workplace Policies

REASONABLE ACCOMMODATION

- Barbuto v. Advantage Sales and Marketing, 78 N.E.3d 37 (Mass.2017)
 - During hiring interviews, Barbuto told Advantage Sales that she used marijuana to treat a disabling disease.
 - After she was hired and a drug test came back positive for marijuana, she was fired.
 - The State's Supreme Court ultimately sent the case back to the trial court with a recommendation that consideration be given to a reasonable accommodation of Barbuto's disability.
 - Employees in states that have legalized medical marijuana have to be accommodated just like any other employee with a medical/psychological condition would be.
- *Note: In the majority of the states, employers do not have to accommodate off-duty use of marijuana (just as they do not have to accommodate off-duty medicinal use).*

LINGERING TRACES IN DRUG TESTING

- Marijuana stays in a user's system longer than many other drugs, including alcohol.
- The federal threshold for a marijuana positive test is 50 nanograms of THC (the active ingredient in marijuana) per milliliter of urine.
- Can be reached days after an employee last used marijuana and after any impairment from it has passed.
- THC does not typically reveal the presence of cannabidiol (CBD), a marijuana product used to treat anxiety and seizures. CBD is legal under federal law if it does not contain more than 0.3 percent THC.
- Employers may have to give up a zero tolerance drug policy as it relates to marijuana.

WORKABLE DRUG-FREE WORKPLACE POLICIES

- Focus on employee being impaired
- Require reporting of medical marijuana use and verify prescription/restrictions
- Drug testing?
- Some states require approval of workplace drug policies
 - Maine



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