

## Companies: Watch Your Lip When It Comes To Age

By Holly Culhane, Contributing Columnist



Some economists are declaring the “Great Recession” is over. Indeed, locally we are starting to see some signs of recovery. One of my clients recently hired 10 new employees.

But the sweet signs of recovery are not significantly evidenced in the national unemployment rate. And among baby boomer workers, those born between 1945 and 1964, the job market is even bleaker.

National statistics released earlier this month by the Bureau of Labor Statistics, revealed an overall hiring slowdown in November, edging the national unemployment rate up to 9.8 percent. The unemployment rate for Kern County has been averaging more than 5 percent higher than the national rate.

By anyone’s standards, these numbers are grim, particularly for older workers who have been laid off by recession-driven job cuts and who are engaged in months-long searches for replacement jobs to support themselves and their families.

While the national unemployment rate for workers 40 years and older is less than the overall rate, it’s still much higher than historic levels for this relatively “stable” group of workers. And it comes with hurdles that some are finding insurmountable.

In its Dec. 3 bulletin, AARP reported “the landscape [in November] darkened considerably for workers ages 45 to 54, with unemployment jumping from 7.8 percent in October to 8.1 percent in November.”

Sara Rix, a strategic policy adviser at AARP, reported workers 55 and older are taking longer than younger people to find a job. The average duration of unemployment as of November rose slightly to 44.9 weeks from 44.3 weeks as of October. For younger workers it fell to 32.8 weeks from 33.2 weeks. The 55 and older group also includes what some are calling the “new unemployables,” people who have stopped looking for a job because they lack current skills or face age bias.

As more job seekers enter the labor force — including first-time teenage workers, retirees trying to rejoin the labor force, and unemployed workers who were on the sidelines and are now starting to look actively again — the unemployment rate will continue to rise if hiring levels remain weak, the AARP report concluded.

This job market presents a “toxic brew” for employers: More job seekers. Fewer jobs. An increasing number of workers belonging to a “protected class” — protected from discrimination by the Age Discrimination and Employment Act that Congress passed in 1967.

Across the nation, we are seeing an increasing number of complaints and lawsuits being filed alleging workplace age discrimination. Human resources experts predict this number will increase as the competition for jobs continues, more older workers become job seekers, and discrimination information, including guidelines for filing complaints, becomes readily available over the Internet.

Ensuring older workers aren't singled out for unfair treatment - including harassment, demotions and layoffs - as well as creating a level playing field when it comes to hiring, is critical for all businesses. It's just the right thing to do. Plus, it doesn't simply head off costly lawsuits. It makes good business sense, because it results in a diversified and experienced workforce.

The rubber hits the road and exposure to complaints and lawsuits is particularly high in the hiring process. The questions untrained and inexperienced interviewers ask can be potential "time bombs."

Applicants cannot be asked: How old are you? However, they can be asked if they are the minimum age required to perform the job. The law allows those aged 14 and 15 to work in a limited capacity, and 16 and 17-year-olds can perform non-hazardous jobs.

Other questions, such as "What year did you graduate from high school?" and "What is your birth date?" are also out of line, since they can seem to pinpoint the applicant's age. In addition, interviewers should not ask older job seekers how much longer they plan to work before retirement. They can ask about the applicant's long-term career goals.

Age discrimination is not the only "high risk" area in the recruiting process. A long list of dangerous and inappropriate questions exists that cover such concerns as discrimination on the basis of religion, gender, race, etc. These would include questions like: What religious days do you observe? With such a pretty skin color, where does your family come from? Do plan on having any more children?

Wise companies minimize the risks by training supervisors, recruiters and others involved in the hiring process. They standardize application forms and interview procedures, including questions that are asked. This ensures consistency between interviewers and creates documentation to support hiring decisions if discrimination is charged.

When the economy is booming and jobs are plentiful, unsuccessful job applicants may just "move on," even when an improper question is asked or discrimination is suspected. In today's economy however, fewer opportunities exist for applicants to "move on," creating more opportunities to file claims that could result in costly lawsuits.

***This article written by Holly Culhane first appeared in The Bakersfield Californian on December 17, 2010. Holly Culhane is president of P.A.S. Associates, a Bakersfield human resources consulting firm. She can be contacted through her website at [www.PASassociates.com](http://www.PASassociates.com) or by phone at 631-2165.***

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