

Tomas Bata University in Zlín  
Faculty of Management and Economics  
Academic year: 2021/2022

Study programme: Economic Policy and Administration  
Form of study: Full-time  
Branch/combination: Finance (FIE)



## Business Ethics

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Work topic: Unfairness (Discrimination) in the workplace

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## **1. INTRODUCTION**

Nothing is fair in this world that we are situated in. This transpires in our daily lives as well. Unfairness manifests itself in a range of job features, with age, obesity, and income being some of the most evident. Income is of course only one aspect of a job, as emphasized in the job-quality literature (Clark, 2015) but is undeniably a vital element of a good job, certainly quantifiable and potentially visible.

In the workforce, Age and obesity discrimination is the fastest-growing type of discrimination. Claims of workplace age discrimination in workers 40-years-old and older were investigated by the Equal Employment Opportunity Commission (EEOC) ("About EEOC", 2009). There were 24,582 complaints of age bias reported to the EEOC in 2008 (Levitz and Shishkin, 2009). A considerable proportion of the American public is overweight. Overweight individuals are frequently the victims of persistent discrimination, mainly in the area of employment. This paper examines matters associated with Age and obesity discrimination in the workplace.

It contains the introduction to the topic, explanation, and definition of the aim of the essay, and description and reasoning of the text structure. Composed

## **2. AGE DISCRIMINATION IN THE WORKFORCE**

Age bias has been a historical base for employers wishing to hire new employees. To discourage an employer from age discrimination the federal government created the Age Discrimination in Employment Act of 1967 ("Laws Enforced", 2009). "The Age Discrimination in Employment Act of 1967 (ADEA) is a federal law protecting people 40 years of age or older from employment discrimination based on age. ADEA also applies to employers with twenty or more employees" ("Laws Enforced", 2009) which means companies with less than twenty are not covered under ADEA but many states do offer laws to shield employees from age discrimination.

Age discrimination is a biased incident against employees 40 years of age and older according to ADEA, but the struggling economy has forced an age bias in younger employees as well. Age discrimination can take its clang physically, emotionally, and financially on employees. Income, houses can be lost by employees or they can become overly stressed as a result of age discrimination. In the implications and analysis section, four specific cases documenting different situations of age discrimination and how they affected the lives of the employees were found. The workplace discrimination claims are all investigated through the Equal Employment Opportunity Commission (EEOC, 2009).

When people think of discrimination, they think of black and white, male and female, or gay and lesbian, but the EEOC has reported age bias discrimination as the highest and fastest-growing type of discrimination. With the national unemployment rate hovering above 10% companies are looking to continue operations in the most cost-effective way. Employers are caring less about ethical practices and employee relations, and more about profit-making any means possible. EEOC spells out the legal consequences of breaching this law.

### **2.1 What is Discrimination?**

According to Webster's Online Dictionary, "Discrimination is defined as a biased decision based on a prejudice against and an individual group characterized by race, class,

sexual orientation, age, disabilities, etc..." With companies having to "trim" to stay afloat some employers are partaking in biased redundancy practices. Bias grievances are at an all-time high, with a 29% increase in age, 14% increase in sex, 14% increase in religion, 13% increase in nationality, 11% increase in the race, and 10% rise in disability complaints from 2007 to 2008 (Levitz and Shishkin, 2009). Collectively overall employment discrimination complaints are at a record high up 15% in 2008 for a grand total of 95,402 (Levitz and Shishkin, 2009).

## **2.2 Discrimination in older workers**

Age-based discrimination has been the most popular type of discrimination reported to date. "The Michigan Department of Civil Rights reports a 77% increase in the number of people who contacted the agency claiming age discrimination over the percent past three years, from 703 in 2005 to 1,245 in 2008. Of those, all but 1 involved claims of discrimination at work" (Price, 2009). To test whether or not older workers were being looked at on the same level as younger employees several blind studies have been conducted. In a study done by Joanna Lahey where 4,000 fake resumes were sent out in Boston and St. Petersburg, Florida, for entry-level clerk jobs, employees believed to be less than 50 years old were 40% more likely to be called for an interview (Price, 2009). According to the Department of Labor, around 40% of people ages 55 and older made up January's workforce The 40% of people 55 years and older in the workforce is an increase of 4% from January of 2004 (Levitz and Shishkin, 2009). Due to the economy being in a rut older workers are delaying their retirement in order to build a stronger 401K and pension. Even in 2002, the number of employees between the ages of 55 and 64 rose by 2% (Armour, 2003).

While federal law protects workers 40 years old and older, some states have adopted laws to protect younger workers from reverse age discrimination too. "The Minnesota Human Rights Act (MHRA) prohibits employers from discriminating against employees based on age. The protected class includes any person over that age of majority, thus unlike the Federal Age Discrimination in Employment Act, the MHRA protects individuals age 18 or older" (Ross, 2006). The number of jobs for workers within the age range of 16 to 24 has fallen. Almost 10 years ago 59 percent of people ages 16 to 24 had jobs, but now only 49 percent of them are employed. Americans among the ages 25 to 29 are also seeing a decline in the number of jobs available. Now only 74 percent have a job, which is down from 81 percent a decade ago (Greenhouse, 2009). Michigan has also realized the importance of protecting workers of all ages and state legislators created the Elliott-Larsen Civil Rights Act. Under the Elliott-Larsen Civil Rights Act discrimination is prohibited based on religion, race, color, national origin, age, sex, height, weight, familial status, or marital status, as well as retaliation (Hornberger, 2003).

## **2.3 Explanation of Age Bias**

There are several different explanations that are causing age discrimination in the workforce. Different organizations and companies cite that older workers are less productive, less ambitious, have a lack of creativity, are harder to train, and are often more expensive (Dipboye and Colella, 2005). Older employees are being passed over for jobs because "some companies may have difficulty with older workers because they may not be willing to change with a company's new way of doing things or have the technical skillset to keep pace with their company. Younger workers and those recently out of school tend to be more flexible to change" (Price, 2009). In a national study conducted by AARP in 2000, human resource managers gave the top five stereotypes of older employees. The top five false stereotypes include: older workers are unwilling to try new things, not as agile or quick, have more health-

related problems, unwilling to learn new technology, and are less driven due to being burnt out in the proximity of retirement (AARP, 2009). "It's also possible that companies may be targeting older workers in some layoffs because the senior staffers are generally the highest-paid and have the most lucrative benefits," (Levitz and Shishkin, 2009). Younger employees are being turned away for lack of experience. With the troubled economy, younger employees are being laid off for workers with more sonority, or personal family situations. In a 1976 study conducted by Rosen and Jerdee, younger employees were perceived to be more creative, ambitious, motivated, logical, and work better under pressure than older employees (Dipboye and Colella, 2005)

#### **2.4 Implications/Analysis Concerning Age Discrimination**

Age discrimination can happen to especially older employees. Below are three cases that show the implications of age discrimination. Three of these cases have to do with older employees being let go.

The first case is about an elderly woman who was let go from her job from what she thought was budget cuts, but in reality, it was age discrimination. Diana Schleich was working as a secretary in the Human Resources department for the city of North Lauderdale, a position she held for more than 10 years when she was fired in 2005. The city had told Schleich that her job would be merged with a receptionist's job. After a month-long wait Schleich was informed that the receptionist would keep her same job while Schleich's position was terminated immediately. Schleich applied for another opening in the Human Resources department, but a 28-year-old was chosen instead of her (Figuroa, 2009). Diana Schleich ended up having to move out of her home and live with her adult son because she could not afford to live in her current home anymore without a job (Figuroa, 2009).

There was another case in Boston that involved an older employee. Virginia Dilorio was 59 when she was fired from her Vice President position at a local country club. Dilorio was the V.P. of sales for the Willow Bend Country Club and was fired along with 12 other employees that were over the age of 50 (State, 2009). After firing everyone over the age of 50 the manager of the country club said he was making way for "younger blood" (State, 2009). Dilorio filed a discrimination complaint and both she and her husband suffered the consequences when they were no longer allowed to set foot on the country club property. Due to her embarrassment from being banned from the country club and the obvious age discrimination, Dilorio settled for \$200,000 in emotional distress damages, her \$62,000 salary from the date of her layoff until she turns 65, and an additional yearly amount equal to half of her commissions in 2005 (State, 2009).

### **3. OBESITY AND DISCRIMINATION IN THE WORKPLACE**

A substantial share of the American public is overweight. Overweight persons are frequently the victims of pervasive discrimination, particularly in the area of employment. Over 64% of America is overweight and the number is increasing every year by a staggering amount. 44 million Americans are obese according to the Center for Disease Control (CDC),. That is one in five people are obese. The scariest part about that statistic is that the number of people who are obese skyrocketed at a rate of 7% every year since 1991. The amount of medical care costs for an obese person is around \$ 620 compared to non-obese persons (Obesity in America, 2004). According to the CDC cost of treating soared to around 150 billion in 2008 and the cost doubled over a decade (WSJ, July 28, 2009). The cost was 74 billion in

1998. Obesity is a big problem because of injury claims, healthcare costs, and the absenteeism of obese workers.

Obese people are stereotyped and often discriminated against in the workplace, although anti-discrimination laws for obese people are beginning to come into existence. Current research has shown that obese employees tend to result in higher costs for employers because of higher absenteeism rates, more medical claims, and lower productivity rates. Obesity has become a global problem. According to the WHO (World Health Organization, October 2009), more people worldwide now die from being overweight and obese than from being underweight. The WHO report states that 1.6 billion overweight or obese people in the world and 2.5 million deaths are attributable to obesity. . Obesity costs over 39 million lost workdays as well as 63 million trips to the doctors. Obesity costs U.S. businesses around 13 million dollars (Obesity in America, 2004). Obese people who had BMI's of over 40 had the highest number of lost workdays (USA Today, 2007).

John Hopkins study had results similar to the Duke study. According to the John Hopkins study, 29% (percent) of the 7690 workers included in the study were injured at least once and 85% (percent) of the injured workers were classified as obese (Obese Workers, Associated Content, 2007)

### **3.1 Hesitations in Hiring**

There are many reasons why employers are hesitant to hire overweight workers. The first of these hesitations are a decrease in worker productivity. Many studies have concluded that companies that employ overweight workers lose money due to a decrease in production. This is because "overweight workers are slower and less efficient than their slimmer counterparts-costing their employers an average of \$1800/- a year (Harper, 2008) Companies that employ overweight workers risk the increasing cost of insurance. In 2004 health care cost was around 12 percent of the budget and now it has risen to more than 18 percent.

A New York-based Insurance Information Institute reported that because of obesity, the rate for health insurance, life insurance, disability insurance, workers compensation liability insurance, and excess casualty insurance are all on the rise (Merx, 2004). Joyce reported that in 2004 total costs of obesity to U.S. companies were around \$13 billion annually and there was also a 13 percent increase in health care premiums (Joyce, 2004). And according to the CDC (Center for Disease Control) cost of treating soared to around 150 billion in 2008 and the cost doubled over a decade. The cost was 74 billion in 1998 (WSJ, July 28, 2009).

**Wages** can be affected by weight discrimination. A study showed that overweight women make 24 percent less than normal size women and moderately obese make 6 percent less (Kirstein, 2002). Airline Industry weight regulations for flight attendants have posed problems for employees above average weight. In *Tudyman v. Southwest Airlines*, a flight attendant was terminated and his reinstatement was denied because weight exceeded airline requirements (Garcia J, Hofstra Labor Law J. 1995). Courts have accepted airline weight restrictions. We can cite many cases to support our thesis. McDuffy Vs Interstate Distributor Company(2004), Cook Vs Rhode Island Department of Mental Health(1993), Butterfield Vs New York State, EEOC Vs Watkins Motor Case, Pan Am Flight Attendants Vs Delta Air Lines

### **3.2 Obesity in the Workplace**

Obesity in the workplace is still increasing at a fast pace. In fact, it's predicted that by 2015 obesity will account for forty percent of the American working population (Gabel, 2009).

A study done from 1990 that dealt with the BMI (Body Mass Index) and the body fat percentage had smaller numbers than the same study performed in 2000.

### **3.3 Impact of Obesity**

The above cases indicate the impact of obesity on business. Many employers feel that obesity is becoming a serious problem. Obesity impacts productivity, which is measured by days, missed at work due to illness. Lost productivity may be several times greater than the medical costs associated with obesity. In addition, being present but working at a reduced rate may account for a larger portion of losses than being absent from work. Overweight workers cost more. Obese employees had twice the rate of workers' compensation claims as to their fit-coworkers.

A Duke University study found that overweight workers were more likely to have claims involving injuries to the back, wrist, arm, neck, shoulder, hip, knee, and foot compared to normal workers. Obese workers had 13 times more lost workdays injuries. (Fox, 2008). The CDC (Center for Disease Control) found that obesity costs around 75(seventy-five billion dollars annually in health care cost, disability, absenteeism and lost productivity. Businesses paid 8% more in health care claims due to overweight and obesity prior to 2007(National Business Group on Health, 2007). The government assumes that it costs almost \$117 billion dollars a year in health costs and obesity leads to about 300,000 deaths a year. Obesity costs over 39 million lost workdays as well as 63 million trips to the doctors. Obesity costs U.S businesses around 13 million dollars (Obesity in America, 2004). Obese people who had BMI's of over 40 had the highest number of lost workdays (USA Today, 2007). John Hopkins study had results similar to the Duke study. According to the John Hopkins study, 29% (percent) of the 7690 workers included in the study were injured at least once and 85% (percent) of the injured workers were classified as obese (Obese Workers, Associated Content, 2007). Research has shown stereotypes about obese people include being emotionally impaired, lazy, and selfish, and that these stereotypes have influences on the judgments made regarding obese individuals. Others think that fat people are lazy, stupid, greedy, and "smelly". "Discrimination against fat people seems to be the last fashionable form of overt prejudice people can safely indulge in without remorse".

## **4. CONCLUSION AND RECOMMENDATIONS**

The heart of the issue of obesity discrimination is that the stereotypes held are potentially just beliefs; in many cases, the stereotypes do not hold true and create a negative environment that is not contributing to assisting or encouraging the obese employee. It is not just the responsibility of the individual, but also of the community and the private and public sectors (Strumpf, 2004). It is becoming obvious that employers are going to have to start being proactive in their approach with their hiring practices on this subject or implement more weight management programs.

Business management should become aware of the population trends of obesity and provide a better work atmosphere to their employees that feel stressed from obesity. They should also provide training and education regarding discrimination and obesity to employees, especially in the hiring department. It is important interviewers do not fall into the habit of the Halo Error, which would impart negative characteristics to obese applicants, deserving or not (Townsend and Paul, 1998).

Recommendations for the topic of age discrimination may vary greatly depending on who the recommendation is given too. When reviewing the case studies the first recommendation for managers of firms that are worried their firms are engaging in this practice is to review the process with their people in charge of hiring and firing. Managers need to make it clear the potential liabilities their firms face if it's shown that they are discriminating based on age. It needs to be clear to those hiring and firing that if they act with bias, it will potentially greatly hurt the company.

Managers of firms should hold a review of the actions of those in charge of hiring and firing to attempt to detect patterns of discrimination. This could be done through statistical reviews of ages. If outlying factors are potentially confounding the statistics a manager could personally interview those in charge of hiring and firing. A manager could also potentially devise a test to issue to those in charge of hiring and firing to see if they display any bias on the test. If the company can detect that a person is acting with biasness, they can potentially correct the situation before it becomes a legal matter and becomes costly to the company.

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