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Tips for Over-40 Workers in Today's Job Market

By THE ASSOCIATED PRESS

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NEW YORK (AP) -- Trouble in the job market is bad news for all workers, but those over 40 may be finding these days particularly unnerving because they fear younger employees with smaller paychecks could poach their positions.

That's the wrong way to think about the current job environment. Older workers, who make up nearly half of the 141 million U.S. work force, should play up their talents and experience. After all, their background likely exceeds that of their younger colleagues, employment experts say.

They also should know their rights under the law, because that will help them watch for and fight any possible discrimination. Employers can't terminate workers because of their age.

The workplace should be "gray blind," just like it is blind to race, religion and gender, said Martha Finney, an author specializing in workplace issues who wrote the new book "Rebound: A Proven Plan for Starting Over After A Job Loss."

"You should never be judged by your age. It should always be about performance," Finney said.

To help make that happen, here are some tips workers over 40 should keep in mind:

-- REMAIN CONFIDENT:

Just because the job market is tough these days, don't assume that the over-40 crowd is going to be first to be let go. Believing that may affect one's job performance.

In fact, older workers haven't necessarily been singled out during the current [recession](#). The unemployment rate for those age 45 to 54 rose to a high of 6.6 percent in March and was 6.4 percent in April, according to the Labor Department.

While that was the highest since the winter of 1983, it still trails the 8.9 percent unemployment rate in April for the total U.S. work force.

-- KNOW YOUR RIGHTS:

The Age Discrimination in Employment Act of 1967 protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. That means it is unlawful to discriminate against a person because of his or her age during the hiring, firing, promoting, laying off, training or compensating of an individual.

Discrimination can come in two forms. An employee can claim the employer treated him or her differently than other employees or set standards that alienated certain age groups. That is known as "disparate treatment."

The other form is known as "disparate impact" and that has to do with how an employer's practices may benefit one group over another, even if there was no intent for discrimination.

In 2008, age discrimination complaints rose 30 percent from the year before, according to the [Equal Employment Opportunity Commission](#).

But proving age discrimination isn't easy. Of the 24,582 cases of age discrimination the EEOC received last year, only 18 percent of those were resolved with outcomes favorable to the plaintiff.

"There is a direct correlation between bad economic times and uptick in discrimination claims," said Paul Lopez, who chairs the labor and employment practice at the Fort Lauderdale, Fla., law firm Tripp Scott. "But they are difficult claims to pursue and prosecute."

-- DON'T "GRAY" YOURSELF:

The worst thing for a worker over 40 to do is make their age an employment issue. "It will only be a handicap if you make it a handicap," Finney said.

That means older workers need to play up their strengths and highlight their skill set and experience as valued tools so that employers recognize why they are worth keeping around. Finney goes so far as to say employees should tactfully boast talents to supervisors if that is what's needed to get them noticed.

"You won't be helping anyone by keeping your lips zipped," she said. "Then no one will know the pot of gold they might have."

Older workers also should try to avoid dating themselves on their resume or in the course of their work. For instance, they don't need to mention on their resume when they graduated from college or note basic computer skills, said Myrtle Bell, an associate professor of management at the University of Texas at Arlington.

On the other hand, Bell thinks they should tout education that would bolster their job performance, such as

a masters of business administration or foreign language proficiency. Also, workers could highlight if they have used new technologies in their work. For instance, a marketing manager could show how he used social networking Web sites to grab more customers.

-- CREATE A PERSONAL BRAND:

An employee with a recognizable name or a sought-after expertise in his or her industry is harder to lose. Companies want people like that working in their ranks, and may be more apt to hold on to them.

That doesn't mean the worker's notoriety results in starring in the company's television ads, but it could involve being active in national and local business associations for the company's industry and speaking on panels at industry events.

"You want to be part of your employer's path to success," Finney said. "That could come by contributing to the leading conversation about your business."

And by being involved in activities and groups related to work, employees also get to network with peers outside of their companies -- something that could help them land new work if they were to lose their jobs.

-- REMEMBER WHY YOU ARE DIFFERENT:

In most states, workers over 40 are considered a different class of employees than those below 40. That not only means they can't be discriminated against during hiring or their employment, but there are different rules should they be terminated, too.

For instance, if an older worker is laid off and severance is offered, the Age Discrimination in Employment Act requires their employer to give them 21 days to review the agreement. That differs from younger workers who are only required to get a "reasonable period of time," said Lopez, the labor attorney.

Here is a link to more details about the ADEA: <http://www.eeoc.gov/policy/adea.html>.

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