

Diversity Voluntary Practice Discussion

Discussion Topic: What are employers and others doing to adapt to and engage diverse work populations? What are the benefits, challenges and strategies?

Speakers:

- Jennifer E. Swanberg, Ph.D., Associate Professor, University of Kentucky
Executive Director, Institute for Workplace Innovation
- John Lancaster, National Council on Independent Living, Executive Director

Various participants provided their insights on the topic area. The synthesized version of the discussion is based on notes taken during the day and may or may not reflect the view of those who participated at a given table during the course of the day.

ABSTRACTS

ABSTRACT A:

Institute for Workplace Innovation

Voluntary Diversity Practices Presentation

Prepared By: Jennifer E. Swanberg, Ph.D., Associate Professor, University of Kentucky, Executive Director, Institute for Workplace Innovation

Section 1: Overview of Topic/Research

Diversity within organizations takes on many different meanings. For the purpose of this discussion, diversity refers to the challenge of creating a work environment that engages a diverse population of workers, be it hourly workers, older workers, or working mothers. The discussant can speak to how diverse populations of workers (people w/ disabilities, older workers, and hourly workers) may have different needs. The entire topic of flexible work options can be discussed as an organizational culture response. Based on the speaker's particular research, this particular abstract focuses on the diverse needs of workers employed in lower wage hourly jobs.

- Over the past two decades, 86% of the new job growth in the U.S. has been within service-based industries, and this trend is predicted to continue. In fact, according to the Bureau of Labor Statistics low-wage service occupations are second in terms of the fastest-growing and predicted job growth through 2012. Yet, employers have generally neglected the concerns of employees in low-wage jobs. In particular, little attention has been paid to the work/family challenges encountered workers employed in low-wage jobs.
- Furthermore, the job quality and workplace conditions inherent to many of the jobs that pay low wages place additional burdens on workers. In these types of jobs, workers often have little say about when, where, and how long they work and they are often required to work evenings, nights, rotating shifts, or on weekends. Job schedules may be out of sync with family care giving responsibilities, bus schedules or school schedules. Moreover, compared to jobs that pay higher wages, lower-wage jobs are less likely to offer flexible schedules—the exact workplace practices that have been shown to help reduce the stress and work/family strain often associated with trying to meet the often-conflicting demands of work and family care giving. Additionally, employers often adhere to strict arrival times with penalties for tardiness.
- In many industries, employees in lower-wage jobs are the first point of contact that customers have to the business. As such, some employers have begun to recognize the importance of investing in improving conditions of entry level jobs. This discussion on workplace diversity will focus on benefits and strategies associated with creating flexible and effective workplaces for hourly workers.

Section 2: Clarify implications for employers, stressing any return on investment implications

Analysis conducted by the Families and Work Institute using the *2002 National Study of the Changing Workforce* suggests that among lower wage workers in low-income households a variety of workplace factors contribute to important organizational outcomes including employees' job satisfaction, job engagement, and job retention.

- Factors associated with greater job satisfaction for low wage workers include: involvement in management decision making; flexible workplaces; learning opportunities on the job; access to fringe benefits; and supervisor support of work and family issues.
- Factors associated with job retention include: employer provided education/training programs to enhance job skills and fringe benefits.
- Factors associated with job engagement include: co-worker team support

Considering the research findings, employers may wonder how to re-conceptualize jobs so they provide flexible work arrangements, learning opportunities, or input into decision making. After all, the nature of the lower paying hourly job suggests a rigid adherence to a set schedule, little or no advance notice of their weekly schedule, or job-site-specific tasks allowing for no opportunity to work from home. Yet, innovative employers have found

ways to provide hourly workers input into decision making, job flexibility, and learning opportunities on the job. Below are a few examples:

- Input into decision making: Akebono Brake Elizabethtown, a manufacturer of brakes and brake parts located in Hardin County, Kentucky has strategically created an “open-door” management style. This type of communication system allows all 1,100 associates to have a voice in all aspects of the company’s operation. Associates are encouraged to go directly to the Plant Manager or Vice President of Corporate Relations if they have ideas, questions, or concerns. The company also has a company “hotline” that allows associates to anonymously report day-to-day production and human resource concerns. As one element of broader organizational employee-first work culture, input into key management decision making has contributed to an outstanding retention rate. 50% of the workers employed at Akebono have been employed there more than 10 years.
- Creating Flexible Work Arrangements for Hourly Workers: Preliminary research findings from a study conducted in a retail firm suggest that the following employee schedule strategies are associated with job satisfaction and commitment to the job among employees in lower-wage hourly jobs:
 - Giving employees some input into their weekly schedule and developing a mechanism for employees to swap or cover shifts at the last minute should a personal matter arise.

Section 3: Clarify implications, if applicable, for employees/working women or policymakers

- Research suggests that modifying workplace practices such as adopting flexible work arrangements can offer a range of benefits to employees and employers, including enabling employees to reduce their work and family schedule conflicts (with the possible outcome of reducing absenteeism) and increasing employees’ access to work time during non-traditional hours (with the possible outcome of enhancing productivity and extending customer hours). Yet, low-wage workers are the least likely to have access to flexible work arrangements.
- Barriers to implementing such flexible work arrangements for hourly wage workers are often associated with management’s concerns about the increased supervisory effort required to provide such workplace practices. Moreover, supervisors are also concerned about equity issues. Yet, preliminary research findings suggest that supervisor responsiveness to hourly workers’ schedule requests may be associated with employee retention and job satisfaction.

Section 4: What roles can or have researchers, policymakers, employers, or employees played in this area/topic?

Research findings imply that effective workplace practices are associated with the retention and job satisfaction of hourly workers. Yet, there has been a resistance in the employer community to adopting workplace practices that engage workers in lower-wage hourly jobs.

- Recent research findings suggests that quality work environments that allow for some form of workplace flexibility, decision-making into management decisions, and learning opportunities on the job lead to better outcome for employees and employers. There needs to be a more deliberate effort to educate businesses about these findings and to encourage adoption of these workplace policies.

Section 5: Discussion Starter Questions

- What are some of the challenges associated with managing a lower-wage hourly work force?
- How are these challenges different from those of managing a professional salaried workforce?
- What are some of the benefits associated with managing a lower-wage hourly work force?
- What management strategies have been employed with this population of workers that has been successful?
- What management strategies have been employed that have not been as successful as one hoped?
- What needs to happen to bring more attention to this issue among employers and policymakers?
- What are the long-term implications if businesses continue to ignore this issue?

Discussion Synthesis: Diversity Voluntary Practice

Trends

An emerging workplace trend is the increasing realization that forces shaping options for workingwomen are, in fact, forces affecting everyone in the workplace including women, men, caregivers, entry-level workers, impending retirees, second careerists, people with disabilities, and employers. Both voluntary diversity workplace practices and public policy in support of workplace diversity can positively reshape the workplace for all employees and expand the labor pool for employers.

“The more that you make your organization diverse, it will begin to diversify even more, naturally because it already has that diverse base,” explained a Summit participant.

In business there is an expanding understanding of what diversity means within society and how this new definition plays a role in building workplace cultures. The concept of diversity plays a significant role in work design now because it not only incorporates ideas on ethnicity, race, or age but also work-style and work-life expectations. Building and making use of diversity within an organization requires a deliberate strategy and commitment. Fostering an inclusive workplace culture goes beyond just getting people of diverse backgrounds into the workplace; it also means getting employees involved and keeping them engaged. It is about building a culture of inclusion that is structured to help drive the success of the firm and its ability to meet the organizational mission.

An emergent trend in work design is shifting the paradigm on diversity from being an organizational challenge to being a powerful resource that can be harnessed to drive organizational successes. Deliberative efforts to hire diverse workforce expands the pool of eligible workers for employers. “To have diversity, you have to do diversity,” explained a Summit participant.

For national employers, they find they must also look at geographic diversity. People in field offices have very different issues and challenges than those in central offices. For example, developing and enforcing inclusive work environments or programs and policies across state or national borders can be a challenge as employers encounter different laws and local cultures. Diversity can also have multiple layers that make it a challenge for employers to manage. For example, a company may be diverse when looking across its workforce nationally but within local communities it may not exhibit great diversity.

Diversity is not a stagnant concept. Even now, some forward-thinking employers are trying to understand how to meet the challenges of a multi-generational workforce and how to meet the changing needs of employees across their life and career spans as well as how to most effectively engage them in the workplace. Bridging or harnessing differences in knowledge, experiences, and expectations in multigenerational workplaces presents both a new challenge as well as potential business opportunity for employers.

Common Ground

Demographic and societal changes are expanding the dialogue around a business case for diversity and workplace cultures that support diversity. However, it’s still a conversation mainly being discussed among early adopters and advocates. New ideas on diversity and its role in work design are often expressed by employers on the leading-edge of change. There is recognition among proponents of workplace diversity that, even under prior definitions of diversity that look only at race, ethnicity, age, and gender, many workplaces simply are not diversified.

“Diversity is not (just) a good idea; it is a business imperative. It has to be the way you do business or else your success becomes at stake in our global worlds,” said a Summit participant.

Interestingly, diversity highlights common ground in workplace design strategies. Diversity is not simply about recruiting employees to meet target goals; it’s about designing a workplace environment and a workplace culture that engages employees fully within the organization. Workplace flexibility is often the work-design tool that increases the pool of workers for employers while opening up the workplace to populations of underutilized workers such as people with disabilities, caregivers, and impending retirees.

Being able to make the business case for “doing diversity” rather than simply asserting it as the right thing to do is a new trend common among cohorts of workers—impending retirees, caregivers, people with disabilities, women and minorities—striving to find a place in the labor market.

These diverse populations of current and potential employees have made a conscious effort to expand the understanding of workplace diversity ... at least for some purposes, beyond insuring the inclusion of demographic profiles (religion, age, sex, sexual orientation) in the workplace. They describe it in terms of its effects on work design and enhancing how work gets done.

Actionable Strategies

Typically, people operate within their existing spheres. Therefore, to become inclusive or diverse requires a conscious effort. A strong intention must be present to extend beyond one’s own comfort zone. Deliberate strategies that emerge from observing voluntary workplace practices encompass training, research, and making the business case for becoming an employer of choice.

Training can play an important role in helping people become more sensitive to other opinions and other world views. In practical management terms, it can also be used to help understand concepts of work design, strategies to engage employees, and capitalizing on concepts aimed at getting work done in innovative ways by harnessing the diverse skills, viewpoints, and ideas of employees.

Research highlights successful strategies for workplace diversity, helps employers and employees avoid the pitfalls of failed ideas, and, by measuring the effect of diversity efforts on productivity, makes the business case for diverse workplace. For example, research done on retail firms, such as Starbucks, shows that companies that mirror the composition/diversity of their communities can achieve positive results³⁹.

Participants suggested that employers that want to have access to the largest possible pool of employees will want to demonstrate their status as an employer of choice through their benefit packages and work design options. The examples provided by Summit participants included:

- Offering flexible career paths for part-time and full-time employees with pro-rated benefit packages
- Providing telecommuting or other alternative work options that don’t require the employee to provide reasons for the work arrangement but rather only require that they provide a suggestion for flexible options that maintain productivity
- Including role models among senior executives who use or exemplify programs and policies; so, that diversity is shown to be in practice and is has not been lost among a clutter of unused policies or programs
- Offering team structures that incorporate the inclusion of employees across job descriptions, divisions, or ranks
- Building into the work plan and budget support for work, social, or affinity networks; affinity networks are groups of employees joined together by common areas of interests such as veterans’ networks or women’s networks
- Including diversity efforts in the general operating budget
- Incorporating ways to “hear” employees at all levels through mentoring, brainstorming sessions, focus groups
- Offering domestic partner and/or same-sex domestic partner benefits
- Offering training to get at bias in management practices
- Reflecting diverse voices within the media and publicly acknowledging different view points
- Providing self-employment projects that enable the development of micro enterprises that allow people with disabilities to be more financially independent
- Building public-private partnerships that enable workplaces to access more resources

³⁹ Starbucks Diversity.’ Starbucks. 2002. <www.starbucks.com/aboutus/SB-DIVERSITY-FIN.pdf>

DIVERSITY POLICY Discussion

Discussion Topic: What is the government's role in supporting employers' diversity efforts that take into account the rapidly changing demographics of the American workforce? Can the government set policy or create guidelines to facilitate employers' practices impacting hiring, retention, and advancement of minorities, persons with disabilities, older workers, etc.?

Speakers:

- Jane Kow, Employment Law Advice, HR Consulting, and Management Training; Diversity Fellow to American Bar Association General Practice, Solo and Small Firm Division, 2006-2007, Jane Kow & Associates
- Sarah Pierce, Senior Legislative Representative of Congressional Relations & Political Affairs,
- AARP
- Chantel Sheaks, Legislative Counsel for Tax and Benefits, Workplace Flexibility 2010 of Georgetown University Law Center

The synthesized version of the discussion which follows the abstracts is based on notes taken during the three table discussions on this topic as well as insights offered during informal discussions throughout the day. The summaries may or may not reflect the views of all of those who participated at a given table during the course of the day.

ABSTRACTS

ABSTRACT A

Jane Kow & Associates

AARP

Workplace Flexibility 2010

Workforce Diversity Policies: Adapting to and engaging diverse work populations: benefits, challenges and strategies.

Prepared By: Jane Kow, Esq., Jane Kow & Associates

In Collaboration With: Sarah Pierce, Senior Legislative Representative, Congressional Relations & Political Affairs, AARP; Chantel Sheaks, J.D., Workplace Flexibility 2010, Georgetown University Law Center

Section 1: Overview of Topic/Research

Workforce Diversity Policies: Adapting to and engaging diverse work populations: benefits, challenges and strategies.

In the face of an increasingly diverse and global marketplace for talent and consumers, how can policymakers help employers adapt effective diversity and Equal Employment Opportunity (EEO) policies and practices that will enable them remain competitive in the 21st century? What is the role of government agencies/policymakers such as the Equal Employment Opportunity Commission (EEOC), Department of Labor (DOL) and others in facilitating employer efforts to increase workforce diversity? Will greater enforcement of EEO laws and/or establishing guidelines for affirmative action practices in both the private and public sectors help in this regard? What are other avenues through which the government can assist employers achieve their diversity objectives? This table discussion will include ideas for diversity policies that impact hiring, retention and advancement opportunities for women, minorities, employees with disabilities, older workers, and gay and lesbian workers.

The Business Case for Diversity

1. Demographics of U.S. Women Entrepreneurs/Business Owners

- Women-owned businesses are increasingly at the center of the country's economic growth. The growth in the # of women-owned businesses was nearly twice that of all privately held businesses between 1997 and 2004. As of 2004, nearly half– 48% of all privately held firms were 50% or more owned by women.

2. The Business Case for Diversity: The U.S. Population Today

Between 1980 -2000, the minority population of the U.S. grew 11 times as rapidly as whites

In 2002, the U.S. population looked like this:

- 69% White (194.8 million)
- 13% African American (36 million)
- 13.5% Latinos (37.4 million)
- 4.4% Asian Americans (12.5 million)

3. The View Today: A Tripling Of Certain Minority Groups

- From 2000-2003, the Hispanic population in the U.S. grew 13% and the Asian population grew 12.5%, both 4 times as fast as that of the total population which showed a 3% growth rate. Both of these groups are expected to triple their population over the next 50 years. Today, 18.7% of the total U.S. households speak a language other than English; over 50% of those speak Spanish.

4. Regional Concentration By Race

African Americans and Asian Americans tend to be more geographically concentrated than other races:

- More than half of African Americans live in the South
- More than half of Asian Americans and Pacific Islanders lived in the West

- Recruitment strategies aimed at diversifying the workforce may need to take into account these regional demographic differences

5. The U.S. Population Tomorrow

By the year 2050 the US population will look like this:

- Whites 50%
- Hispanic 24.5%
- African Americans 14.5%
- Asian Americans 8%

6. Age

- Today, there are 24.6 million workers over age 55. 5.2 million or a quarter of this group are 65 years or older. According to the Bureau of Labor Statistics, seniors make up the fastest growing segment of the work force. By 2012, workers 55 and older will make up 19% of the labor force.
- See Legal and Research Summary Sheet: Phased Retirement, prepared by Chantel Sheaks, J.D., Workplace Flexibility 2010, Georgetown University Law Center and Marcie Pitt-Catsouphes, Ph.D. & Michael A. Smyer, Ph.D., The Center on Aging & Work/Workplace Flexibility, Boston College; see also Discussion Abstract prepared by Sarah Pierce, Senior Legislative Representative, Congressional Relations & Political Affairs, AARP

7. Disability

- An estimated 54 million people report having a mental or physical disability and you have a 20% of becoming disabled at some point during your working life

8. Sexual Orientation

- The 2000 U.S. Census reported over 600,000 gay and lesbian families in the U.S.

Section 2: Clarify implications for employers, stressing any return on investment implications

- Diversity and EEO policies providing equal employment opportunities for diverse employees in the workplace helps ensure that employers will be able to hire and retain top talent in an increasingly global marketplace for talent in the 21st century.
- Increasing diversity at all levels of a company improves organizational performance through the integration of a variety of perspectives and approaches in decision making, problem solving and strategic planning as follows:
 - Engage a diversity of perspectives increases the likelihood of informed decision making that minimizes conflict and attains buy-in of diverse employee stakeholders
 - Effectively capitalize on differences in perspective and approaches will improve problem solving and increase likelihood of innovative solutions
 - Improve organizational efficiency through strategic planning that takes diversity into account
- Embracing diversity in the workplace will enable employers to meet the challenge of reaching an increasing diverse customer base as the minority population in the U.S. grows dramatically in the coming decades and companies face increased global competition.
- Employers who are able to adapt best practices for fostering a culture that embraces diversity and prepares management to lead a diverse workplace will be better equipped to meet these challenges.
- Implementing diversity best practices will help foster employee retention and minimize the risk of employment discrimination lawsuits, which not only hurt the bottom line, but also can damage the public image of the company along with employee morale.

Section 3: Clarify implications, if applicable, for employees/workingwomen or policymakers

It is a win-win situation when employees are afforded equal employment opportunities in the workplace. Employees including women and minorities will benefit from effective leadership that embraces diversity in the workplace and interaction within multi-cultural, multi-lingual, and multi-generational teams in the workplace. This will undoubtedly minimize discrimination claims that often arise when employees perceive unequal employment opportunities based on their protected characteristics.

Section 4: What roles can or have researchers, policymakers, employers or employees played in this area/topic?

- Employers and policymakers must work together and take the lead in fostering a diverse and multicultural workforce through implementation of diversity best practices for employee hiring, retention and advancement, as well as EEO and diversity training for managers and employees.
- Government agencies such as the EEOC should enforce EEO laws, investigate claims thoroughly and offer employers and employees opportunities for informal resolution whenever possible.
- Government agencies and policymakers can establish permissible guidelines for affirmative action in hiring, retention and promotion practices in both the public and private sector. They can offer employers training programs, technical assistance, and establish best practices models for EEO compliance and diversity programs. This includes providing resources for employers on the use of various HR forms, procedures and manuals that need to comply with applicable laws:
 - Job application forms, job announcements, and position descriptions that are non-discriminatory;
 - Written procedures for hiring, training and promotions, as well as providing reasonable accommodations for applicants and employees with disabilities;
 - Written procedures for administering employment tests that are non-discriminatory, including any reasonable accommodations for applicants with disabilities; and
 - Employee handbooks, manuals on recruitment and selection, directives on EEO and diversity, and other documents reflecting best practices related to the hiring, retention and advancement of women, minorities, seniors, individuals with disabilities, gays and lesbians.
- Employers should consider implementing leadership development training that includes coaching for women, minorities, employees with disabilities, etc., which be included in strategic planning for future workforce development.

Section 5: Discussion Starter Questions

- What are some ways in which the government or policymakers can help facilitate employer efforts to increase diversity in the workplace?
 - Local v. state v. federal government (e.g., On February 1, 2001, President Bush announced the New Freedom Initiative - a comprehensive program to promote the full participation of people with disabilities in all areas of society by increasing access to assistive and universally designed technologies and expanding employment opportunities)
 - Legislative and executive action
 - Training and technical assistance for employers
 - Funding research and task forces to examine bias issues in the workplace
 - Voluntary tax credits/benefits
- How can government agencies such as the Equal Employment Opportunity Commission and the Department of Labor facilitate employer efforts to increase diversity in the workplace?
- What should be the role of policymakers in establishing guidelines for affirmative action, EEO compliance and diversity training and best practices in both the private and public sector?

ABSTRACT B

AARP

Aging Workforce Presentation

Prepared By: Sarah Pierce, Senior Legislative Representative, Congressional Relations & Political Affairs, AARP

Section 1: Overview of Topic/Research

The fastest growing segment of workers are over the age of 55 (24.6 million workers as of August 2006), with 5.2 million of those workers age 65 and older. As the baby boomers age so does the overall workforce.

Section 2: Clarify implications for employers, stressing any return on investment implications

- Three-fourths of companies have policies that address diversity in the workplace
- In FY 2005 the Equal Employment Opportunity Commission (EEOC) reported age related discrimination charges down – 16,585, down 7% from 17,837 in FY 2004
- There will be more jobs than workers
- Positive impressions vs. Negative impressions: an employer who values experience and knowledge vs. an employer who sees cumulative experience as a limitation to new ways of working, and knowledge as being old and outdated.
- More positive characteristics: productive/engaged, innovative, complex problem solvers, strategic minded
- Barriers: attitudes about age, Non-linear career path, surplus experience, little benefit of the doubt, harmful stereotypes

Section 3: Clarify implications for employees/workingwomen or policymakers

- 90% are looking for a worker-friendly environment
- 80% would like to learn something new
- 75% want to pursue something they've always wanted to do
- 16% of pre-retirees plan to work for themselves
- 70% of pre-retirees plan to continue working, half foresee working into their 70's
- Flexibility – work-life, phased retirement, benefit options/design, and job structure – 70% are looking for balance; one-third have care giving responsibilities; 20-30% have had major life and/or family changes over the previous 5-years
- Affordability – retirement security, social security, supplemental income – top reason for pre and working retirees to work in retirement
- Two-thirds also want to work to remain active and useful

Section 4: What roles can or have researchers, policymakers, employers, or employees played in this area/topic?

- Equal Employment Opportunity Commission (EEOC) involvement – vigorously pursue allegations of age-related bias in the workplace
- Develop EEOC best practices/model policies/and host workshops that assist employers to eliminate age bias in recruitment, hiring, and retention practices
- Enact public policy that affords flexible work options – phased retirement, comp time, and other options that allow innovative schedule design

ABSTRACT C

Workplace Flexibility 2010

Pension Protection Act Presentation

See document entitled: *Legal and Research Summary Sheet: Phased Retirement* at

http://agingandwork.bc.edu/documents/Center_on_AgingandWork_Phased_Retirement.pdf.

Addendum to Attachment

On August 17, 2006, President George W. Bush signed into law the Pension Protection Act of 2006 (“PPA”). H.R. 2830 generally was the precursor to much of the PPA. The PPA contains the same provision as H.R. 2830 amending the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 regarding payments of pension distributions to individuals who continue to work after age 62.

Therefore, under the PPA, a plan, fund, or program will be treated as being made from a pension or retirement plan even if the distribution is made before termination of employment to an individual who is at least age 62 and who is not separated from employment at the time of the distribution.

Discussion Synthesis: DIVERSITY POLICY

Trends

Diversity is a policy level concern for employers and employees because it involves following not only good business practices but also adhering to legal requirements based on local, state, and federal laws and regulations.

Market and societal factors are shaping the workforce and the workplace and are driving conversations about diversity. One major factor is that employers are now operating in a world where employees are experiencing a splintering of identity. Workers as well as employers are discovering that workplaces, even those with a seemingly homogeneous labor force, are actually teeming with diversity. Employees are similarly finding themselves identifying with and/or being identified by an array of demographic and cultural characteristics:

- Religion
- Race, Ethnicity
- Native Born, Immigrant, 1st Generation
- Age
- Marital Status (Single-Never Married, Divorced, Married, Widowed, 2nd/3rd etc. Married)
- Parents, Child-Free, Blended Family
- Geographic Location: Rural, Urban, Suburban; Region; Red State, Blue State
- Political Affiliation
- Educational Level
- Person with a disability, without a disability, family member of someone with a disability
- Caregiver, Non caregiver
- Sex
- Sexual Orientation
- Etc.

This splintering of identities means more employers are faced with engaging diverse peoples within the workforce and enabling their full participation. The expansion of the global market to include global workforces simply increases the complexity of diversity issues being faced by employers. These overtones can include an employer's need to ensure full participation for a person regardless of sex, race, ethnicity, disability, religion, sexual orientation, etc., understand the implications for work-life effectiveness for family members of people with disabilities and keep up with emerging categories of discrimination such as "family responsibility discrimination." Family responsibility discrimination is an emerging trend in workplace law that addresses discrimination against employees with care giving responsibilities such as parents or those caring for an ill or elderly relative. Caregivers do not have protected status, however, this group of employees may be disproportionately affected by sex-based discrimination or discrimination related to disability. In those cases, the EEOC has authority to enforce compliance with the ADA and Title VII, and provide those same protections to caregivers⁴⁰.

In response, some employers support the development of affinity groups, offer diversity trainings and deliberately engage in hiring practices that make their workforces resemble the communities in which they do business.

In a related manner, more populations of employees are advocating for equal opportunities in the workplace and are beginning to form collaborations. These collaborations are based upon the recognition that some solutions to increasing one group's participation in the workforce, such as flexible work options, can hold promise for other groups of workers.

In addressing issues of diversity in the workplace, government has already played a significant role. With the passage of the 1964 Civil Rights Act, which outlawed discrimination based on sex, race, color, religion or national origin in voting, employment, and public services—and the passage of the Equal Pay Act of 1970, which makes it unlawful for employers to discriminate on pay between men and women doing the same or similar work—government has already staked a claim in the conversation. As new policy is developed, however, to deal with the ever-changing definition of diversity, it is still critical to pause and ask: What is government's role in facilitating change? Do they follow the employer's lead, take the lead, or act in tandem?

Advocates working on behalf of people with disabilities, for example, in the last two decades have pushed for government to be a model employer in hiring and advancing people with disabilities. But ensuring diversity is

⁴⁰ "Unlawful Disparate Treatment of Workers with Caregiving Responsibilities." Equal Employment Opportunity Commission. 2005. <<http://www.eeoc.gov/abouteeoc/meetings/5-23-07/index.html>>

not a simple task that being a model employer can guarantee. A Summit participant explained that the EEOC is currently trying to understand why there has been a decline in the rate of employment for people with disabilities during that same two decades⁴¹.

This is a question that has implications for an expanding pool of workers. The rate of disabled veterans is “going through the roof,” explained another Summit attendee. “Employers have to anticipate that it is going to get worse. These (veterans) are men and women in their prime work years.” Employers, advocates, and policymakers are going to have to ask themselves: What does it take to get them back into the civilian workforce?

Forecasting other potential areas where policy and practice on diversity may intersect, participants predicted an increasing potential for age discrimination as the Baby Boomer’s, those born between 1946 and 1965, age and the potential targeting of older, more expensive employees for termination increases. Summit attendees also cited the increasing development of multi-jurisdiction employers, employers that have work sites in different governmental jurisdictions. Private employers encounter rules, regulations, and laws at the state and local levels as well as the federal that impact their ability to develop and implement inclusive workplace practices. When national employers have businesses in different states, they have to craft diversity and benefit programs that meet varying rules and regulations. This challenge is intensified when employers cross national borders and build international workplaces. Exploring what is a happy medium between ensuring fair and equitable workplaces for employees and allowing firms to maximize their profits is an important task for researchers, policymakers, employers, and workingwomen.

Common Ground

There is an evolving and expanding conversation about what is “diversity.” This new awareness of diversity and the role it can play in the workplace seems to be encouraging organizations to establish internal floors around diversity efforts that 1) eliminate discrimination and 2) create an adaptable work structure that enables the largest possible potential labor force to actively and productively participate in the workplace. In order to sustain this structure, workplace design that encourages diversity acknowledges and meets both the employer and employee’s needs. What can be done to harness diversity as an engine for innovation and productivity seems to be an underlying theme of this conversation. The question being asked is how perceptions among employers and policymakers can be changed to allow diversity to be seen as a productive force rather than as a drag on the bottom line.

An example of the effort to change the workplace diversity paradigm emerges from the disability rights movement. Organizations within the movement are trying to transform doubt about those with disabilities into forward-facing questions: How can people with disabilities be enabled to work and to be as independent as possible in their community of choice while assuring them an acceptable living standard? This thought process is in direct contrast to the current one of: If people with disabilities “can’t work” within the current structure of the workplace, what supports should society provide to enable their survival? This shift in focus enables diverse groups of people to work and offers a way of identifying implications for many categories of employees. When options are put in place that enable one set of workers to participate in a workplace, they can have the unintended consequence of helping other employees (i.e. flexible work schedules that enable disabled vets, caregivers, or maturing workers to stay on the job). Some categories of diversity cross race, age, or sex such as disability or care giving status. The workforce is changing, and diversity is a newly emerging, if unfamiliar, norm.

To establish common ground among employers and employees that enables the development of win-win public policy, it is important to understand what motivates different players. What often motivates companies is the bottom line. If public policies enable employers to attract and retain qualified employees or to maximize employee productivity, then they are more likely to support them. What would such “enabling” government policies or programs or public-private partnership look like? It is a question, in part, of how government can offer incentives for business to help them establish equitable practices: through establishing bidding rules for government contracts, acting as a model employer and taking the lead in establishing and measuring the impact of equitable work practices, by acting as an educator, by establishing and sharing definitions of equitable practices, as well as by

⁴¹ Meyers, Linda. “Gap Widens Between Working Age People With and Without Disabilities.” Cornell University. 2005. <www.news.cornell.edu/stories/Oct05/Disab.work.rpt.html> ; Also see: “Disability Discrimination.” Equal Employment Opportunity Commission.< www.eeoc.gov> ; Also, see: Disability Statistics: Online Resource for U.S. Disability Statistics. Cornell University. <www.ilr.cornell.edu/edi/disabilitystatistics/>

helping employees and employers understand what their respective rights and responsibilities are under existing laws and regulations.

It is also extremely important when approaching policy development to understand more clearly that there is a significant difference in having a legislative or regulatory goal that is the elimination of discrimination rather than one that is the enabling of diversity. They require different tactics and incentives.

Enabling diversity can lead to unexpected avenues for policy development as policymakers look at such impediments to employee participation as lack of insurance. For example, older workers with pre-existing conditions may stay with current employers in their current positions rather than transition into a more desired phased retirement option, new career opportunity, or even self-employment because they are not guaranteed insurance in the new position or could not afford the costs of individual insurance.

Seeking common ground in enabling diversity has some interesting policy implications. When considering policy or regulatory development, policymakers need to know what types of supports can impact the greatest cross-section of employees and their employers. This means researchers and advocates must be able to observe which strategies for creating inclusive and nondiscriminatory workplaces are successful across most aspects of diversity and enable the greatest number of employees to be fully engaged in the workplace. Examples of strategies that hold the potential for enabling multiple cohorts of employees includes those that increase flexible work opportunities, ensure equitable pay scales related to objective requirements and responsibilities, or that support the development of mentoring initiatives and affinity groups in order to minimize or eliminate the isolation of marginalized groups of employees. Once strategies are identified, the next stage is to recognize what is an appropriate role for government in supporting their implementation.

Establishing the existence of a common ground between employers and employees is critical to the development of any sustainable policy or government program. Competitiveness and productivity are traits that both employees and employers want to build collectively within businesses and individually among employees. As an equal participant in developing common ground solutions to shared workplace challenges, government is not seen as simply playing a punitive or regulatory role, but as having the capacity to model, incentivize, educate, and enable diversity in workplaces. This expanded understanding of the role of government in problem-solving allows more opportunities for the development of public-private partnerships that allow all players more flexibility in developing sustainable workplace policies and programs.

Pragmatically, it is understood that there are cost-related implications to ensuring a diverse workplace and enabling a diverse labor force that have significant implications for policy, employees, and employers. Someone has to pay for such items as insurance for employees with pre-existing conditions or disabilities. Developing equitable distribution of the costs of these policy strategies will be an important piece in determining their eventual success in both adoption as legislation and implementation.

Actionable Strategies

What is government's role in facilitating change? Do they follow the employer's lead, take the lead, or act in tandem? Government can play a role, ideally in partnership with employers and nonprofits, in modeling, incentivizing, educating about and enabling the development of diversity in workplaces, and maintaining its traditional role of regulation and enforcement. The strategies outlined below are culled both from real-world examples of policy development as well as the ideas of Summit participants.

Government can:

- Create mechanisms that allow local governments or organizations to provide reports on challenges and solutions up the chain to the state or federal level.
 - States such as California have hired consultants to look at the incidence of disabilities among their workforce and what types of disabilities that people have⁴².
 - Kansas utilizes its state income tax form for a host of programs including ones that encourage employers to promote volunteering among their employees⁴³. The public-private partnership brought

⁴² [California Disability Access Information](http://www.disabilityaccessinfo.ca.gov/default.htm). <www.disabilityaccessinfo.ca.gov/default.htm>

⁴³ Kansas Volunteer Commission. <www.kanserve.org/kvc/kvc.htm>; Also see: "Community Service Contributions Credit." Kansas Department of Revenue. 2007. <www.ksrevenue.org/taxcredits-community.htm> ; BPW staff were unable to locate

foundations together to work on the program. Program representatives went into neighborhoods and shared information at the grassroots level in the community. Public relations offices at companies then distributed information about the program to their employees.

- Incentivize employers to develop and implement diversity policies.
 - Government can provide tax incentives for employers such as credits on lap tops for telecommuting employees.
 - Government can exercise its spending power in its selection of vendors.
 - Government can sponsor public relations campaigns; Spain, for example, campaigned to change the mindset towards women advancing in the work environment. The country launched a marketing effort that showed differences in workplace attitudes towards women in leadership within five years of its start⁴⁴.
- Provide research and education to employees and employers on rules, regulations, and their respective rights. This is one role that Summit participants felt government could play particularly well.
 - Government can act as a role model. The communities of people with disabilities and the organizations that support them, for example, in the last two decades have pushed government as a model employer. The government has the capacity to model diverse practices such as in hiring practices⁴⁵.
 - Government can track the involvement of diverse groups of employees in the workforce and has the power to research why and how changes in trends are occurring.
 - Government can use the power of the bully pulpit to encourage dialogue and change. President George W. Bush's Freedom Initiative is aimed at ensuring all American's including those with disabilities have the opportunity to learn and develop skills and engage productively in the workplace⁴⁶. This public outreach campaign is one example of how government can play a role in promoting diversity.
 - Government can educate a broad spectrum of citizens. Veterans often don't know what benefits are available to them, but the government sponsors conferences to help provide that information; potentially similar conferences could be held for people in other diverse groups including employers.
 - Government can engage in public-private partnerships that leverage the knowledge and resources of both sectors to meet a shared goal. For examples, Summit participants suggested a possible Department of Labor and/or Equal Employment Opportunity Commission "No Employee Left Behind" program that provides grants to employers that create diverse work environments.

specific references to this program. The above document references the State's volunteer program and tax credit program for businesses supporting community organizations.

⁴⁴ "Spain Presents 3rd and 4th Periodic Reports on Compliance with Women's Antidiscrimination Convention." United Nations. 1999. <www.un.org/news/press/docs/1999/19990617.wom.1138.html> ; BPW staff were unable to locate specific references to the public relations campaign. The above document relates Spain's overall progress on supporting women.

⁴⁵ Levin-Epstein, Jodie. *Getting Punched: The Job and Family Clock*. 2006. <www.clasp.org> ; Also see: Resources and Policy Changes Needed to Create Successful Workplaces. BPW Foundation. 2006. <www.bpwfoundation.org>

⁴⁶ Health and Human Services. <www.hhs.gov/newfreedom/init.html>