

# Creating an Age-Diverse Workplace

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Organizations have committed to investing more money and resources than ever before to increasing diversity and inclusion (“D&I”). According to the Winter 2022 Fortune/Deloitte CEO Survey, 94% of the CEOs listed D&I as a personal strategic priority, 90% of those surveyed confirmed that their organizations aspired to be industry leaders in D&I and more than half of the CEOs reported that as of June 2021 they believed they had succeeded with respect to building D&I into their strategic priorities and goals. However, skepticism regarding commitments to D&I and the efficacy of programs remains quite high, with one report finding that roughly 80% of companies were “just going through the motions and not holding themselves accountable”. Gender, knowledge, skills, experience and ethnicity/nationality/race are the most common dimensions addressed in the D&I strategies covered in PwC’s 2015 survey; however, surveys indicate that only a small percentage of organizations include age as part of their D&I strategies and that even among those organizations the strategy selected is inadequate (e.g., simply encouraging those of different generations to focus on their similarities and/or denying the reality of their differences altogether). This chapter describes best practices for creating an age-diverse workplace as a fundamental goal of D&I strategy.



In its 2015 Annual Global CEO Survey, the global consulting firm PwC noted that “[v]iews about diversity and inclusiveness seem to have reached a tipping point ... [and are] [n]o longer ... seen as ‘soft’ issues, but rather as crucial competitive capabilities”.<sup>1</sup> The following quote from Denise Ramos, then the CEO and President of ITT sums up the

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<sup>1</sup> [A marketplace without boundaries? Responding to disruption \(PwC 18<sup>th</sup> Annual Global CEO Survey, 2015\)](#), 28.

strategic imperative for businesses: “We want people in the company that have differing ideas, differing experiences, differing opinions, because we need to solve our customers’ problems. The only way you do that in a world-class way is to bring a variety of people together and utilize their collective know-how. Diversity and inclusion will make us that much more competitive in the marketplace.”<sup>2</sup> In fact, 64% of the CEOs surveyed in 2015 indicated that their companies had a formal Diversity and Inclusion (“D&I”) strategy, and 85% of them believed that a D&I strategy had improved their bottom line and benefitted innovation, collaboration, customer satisfaction, emerging customer needs and the ability to harness technology.<sup>3</sup>

Two important trends have been driving increased focus on diversity, defined by the U.S. Department of Labor as “the infinite range of individuals’ unique attributes and experiences such as ethnicity, gender, age and disability,” and D&I now has a far-reaching impact on businesses that spans brand, purpose and performance. The first trend has been the growing body of evidence of the strong positive relationships between diversity and business performance and worker satisfaction. Diversity enables companies to tap into the knowledge and experience available in different cultures and belief systems. A McKinsey analysis of racial and gender diversity at firms in 15 countries from 2014 to 2020 found that the top quartile of firms measured on employee diversity outperformed the bottom quartile on metrics such as operating profit margins. The McKinsey researchers noted that the returns on diversity were stronger on race than on gender and appeared to be increasing over time. In addition, many studies have provided support for the idea that diverse teams are better at innovation, at least when team leaders are able to successfully build a capability for creative abrasion.<sup>4</sup>

The second trend, no less important than the first, has been a change in the social, cultural and political environment that has heightened sensitivity among employees and other stakeholders to workplace diversity and inclusion. D&I, which require addressing and eliminating long-standing practices of discrimination in activities relating to the employment relationship, are now treated as issues of fairness, social justice and human rights.<sup>5</sup> For example, the International Labour Organization (“ILO”) has declared that freedom from discrimination in employment is a fundamental human right and that it is

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<sup>2</sup> Id.

<sup>3</sup> Id. at 28 and 31 (also reporting that CEOs who saw more opportunities at the time of the Global Survey than three years before “were more likely than those who see more threats to have a diversity and inclusiveness strategy, and to have seen a range of benefits from that strategy”). See also [Leveraging the Value of an Age-Diverse Workforce \(SHRM Foundation Executive Briefing\)](#), 2 (noting that research conducted by the AARP Public Policy Institute among companies seeking to integrate better D&I practices for an age-diverse workforce found that D&I in isolation is no longer a sufficient goal, but must be part of the organization’s overall strategy; a good D&I strategy can have a positive effect on employee engagement, productivity and the bottom line; and changing demographics mean that attracting and retaining a workforce that mirrors the diversity of the organization’s customer or client base is vital to success). D&I is also sometimes referred to as “DEI” to include “equality” along with “diversity” and “inclusion”.

<sup>4</sup> The great awakening?, *The Economist* (June 13, 2020), 49.

<sup>5</sup> [J. Bourke, S. Garr, A. van Berkel and J. Wong, “Diversity and inclusion: The reality gap”, Deloitte Insights \(February 28, 2017\).](#)

essential for workers to be able to choose their employment freely, develop their potential to the full and reap economic rewards on the basis of merit.

As noted by Martin and North in 2021, the years following the PwC were marked by the emergence of social justice movement and “the likes of ‘Black Lives Matter’ and ‘#MeToo’ suggested that social justice advocates were finding new, creative ways to coalesce”.<sup>6</sup> Organizations committed to investing more money and resources than ever before to increasing diversity.<sup>7</sup> According to the Winter 2022 Fortune/Deloitte CEO Survey, 94% of the CEOs listed D&I as a personal strategic priority, 90% of those surveyed confirmed that their organizations aspired to be industry leaders in D&I and more than half of the CEOs reported that as of June 2021 they believed they had succeeded with respect to building D&I into their strategic priorities and goals.<sup>8</sup> However, skepticism regarding commitments to D&I and the efficacy of programs remains quite high, with one report finding that “roughly 80% of companies are just going through the motions and not holding themselves accountable.”<sup>9</sup>

## Equality, Diversity and Inclusion

Equality, diversity and inclusion are three related concepts that are all essential to a productive and happy workforce and a fair and just society for everyone. Equality comes from equal access to opportunities, free of discrimination; however, the full range of opportunities will only be available when there is respect for diversity and a willingness to include everyone in decisions regarding their lives. A related concept is social justice, which has been described as fair and just relations between an individual and society at large as measured by the distribution of wealth opportunities for personal activity and social privileges.

**Equality:** The guarantee of fair treatment, access, opportunity, and advancement for all while striving to identify and eliminate barriers that have prevented the full participation of some groups. Sometimes referred to as “equity”, this concept is based on the acknowledgement that there are groups that have historically been unfairly under-served and under-represented and that conditions need to be changed for all groups, including them, to enjoy equal access and realization of opportunities. Under the law, equality is supposedly “guaranteed” to members of stipulated protected classes based on characteristics such as age, gender, sexual orientation, gender identity, race, color, religion, marital status, pregnancy and maternity and disability and protection extends to actions such as discrimination, harassment and victimization. However, many would argue that the laws that have been passed have not been sufficient to provide equal opportunities for everyone or protect everyone from discrimination.

<sup>6</sup> [A. Martin and M. North, “Equality for \(almost\) all: Egalitarian advocacy predicts lower endorsement of sexism and racism, but not ageism”, \*Journal of Personality and Social Psychology\* \(2021\), 22 \(citing A. Munnell, “Borrowing from Social Security is the wrong way to finance student debt and parental leave”, \*MarketWatch\* \(February 21, 2018\)\).](#)

<sup>7</sup> [Id. at 23 \(citing O. Staley, “Out of corporate America’s diversity failures, a new industry is emerging”, \*Quartz\* \(October 10, 2017\)\).](#)

<sup>8</sup> [Winter 2022 Fortune/Deloitte CEO Survey \(as discussed in \*How to Measure Diversity and Inclusion: Understanding If Your DEI Programs Are Working\* \(Millan Data Science Strategies\)\).](#)

<sup>9</sup> [J. Bersin and K. Enderes, “Elevating Equity: The Real Story of Diversity and Inclusion”, \*Josh Bersin Academy and Perceptyx\* \(2020\) \(also noting the following “five essential strategies” for D&I excellence: Listen, hear, and act; strengthen HR capabilities in all roles; engage senior leadership commitment; set goals and measure; and create accountability for results\).](#)

**Diversity:** Includes but is not limited to race, color, ethnicity, nationality, religion, socioeconomic status, veteran status, education, marital status, language, age, gender, gender expression, gender identity, sexual orientation, mental or physical ability, genetic information, work experience, lifestyles and learning styles. Notably, the concept of diversity, which refers to recognizing and respecting the differences found among all individuals in society, has broadened and expanded beyond the legally protected groups mentioned above as time has gone by and economic, social and political conditions have changed, as evidenced by the inclusion of socioeconomic status.

**Inclusion:** Authentically bringing traditionally excluded individuals and/or groups into processes, activities, and decision/policy making in a way that shares power and ensures equal access to opportunities and resources. Inclusion empowers diversity by ensuring that once the rights of all groups are recognized everyone has the same access, opportunities and resources to achieve their aspirations. Inclusion also enhances a person's feelings of value, dignity and respect in the workplace and in society generally.

**Sources:** [K. Armstrong, What Exactly is Diversity, Equity and Inclusion?, NACE \(June 25, 2019\)](#); [UC Berkeley Division of Equity and Inclusion](#); [University of Houston's Center for Diversity and Inclusion](#); and [Wikipedia \(Social Justice\)](#).

## Legal Standards

While there are strong ethical and business arguments in favor of D&I, it must also be addressed as part of the efforts to adhere to applicable legal and voluntary standards. For example, Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-2(a)–(d) (2006), prohibits employment discrimination based on race, color, religion, sex or national origin).<sup>10</sup> Notably, age is not a protected class under Title VII; however, the Age Discrimination in Employment Act of 1967 (“ADEA”) (29 U.S.C. §§ 621–634 (1967)), which was passed during the Great Society to address a range of discriminatory actions against older persons in the workplace, forbids employment discrimination against anyone 40 years of age or older in the US.<sup>11</sup> Prior to the passage of the ADEA, many companies imposed mandatory retirement requirements on workers when they reached a specific age, often pushing otherwise qualified and competent workers into years of discouraging unemployment while their skills and self-image needlessly eroded.<sup>12</sup>

<sup>10</sup> [N. Kohn, “The Lawyer's Role in Fostering an Elder Rights Movement”, \*William Mitchell Law Review\*, 37\(1\) \(2010\), 49](#), 51. Kohn also noted that the courts have rejected arguments that age-based classifications violate rights to equal protection. See N. Kohn, “Rethinking the Constitutionality of Age Discrimination: A Challenge to a Decades-Old Consensus”, *U.C. Davis Law Review*, 44 (2010), 213.

<sup>11</sup> 29 U.S.C. § 621 to 29 U.S.C. § 634. Initially, the ADEA solely protected individuals between 40 and 70; however, in 1986 the upper age cap was removed. The ADEA was amended again in 1990 by the Older Workers Benefit Protection Act to protect older workers from an involuntary or uninformed waiver of their age discrimination protections under the ADEA. [A Study of the Age Discrimination in Employment Act of 1967, GP Solo \(November/December 2014\)](#). For further discussion of the ADEA, see the chapter on the ADEA in [A. Gutterman, Older Persons' Right to Work and Productive Resources \(Oakland CA: Older Persons' Rights Project, 2022\)](#).

<sup>12</sup> Commentators have acknowledged the passage of the ADEA while also being critical of both the scope and the practical impact of that statute, noting that it was limited to larger employers and certain forms of employment-based discrimination and exempted entire categories of workers. See [N. Kohn, “The Lawyer's Role in Fostering an Elder Rights Movement”, \*William Mitchell Law Review\*, 37\(1\) \(2010\), 49](#), 51 (citing 29 U.S.C. § 630(b) (2006) (defining “employer” to limit the requirements of the ADEA to employers with twenty or more employees) and 29 U.S.C. § 623 (2006 & Supp. 2008) (excluding, among others, law enforcement personnel, executives, and tenured academics)). Also of interest is [L. McCann and C.](#)

There are also numerous international labor standards addressing discrimination in relation to access to education and vocational training, access to employment and particular occupations and the terms and conditions of employment. For example, the 1998 ILO Declaration on Fundamental Principles and Rights at Work calls on all member States to promote and realize within their territories the right to be free from discriminatory employment practices and references rights and obligations created in earlier fundamental conventions such as the Discrimination (in Employment and Occupation) Convention, 1958 (No. 111) (promoting the principle of equal pay for work of equal value) and the Equal Remuneration Convention, 1951 (No. 100) (promoting equality of opportunity and treatment in employment and occupation).<sup>13</sup>

Companies have incorporated D&I initiatives into their efforts to fulfill the expectations of various voluntary standards and instruments relating to corporate sustainability and social responsibility. D&I is a core principle of several of the UN Sustainable Development Goals including gender equality, decent work and economic growth and reduced inequalities, and Goal 10 (reduced inequalities) explicitly calls for efforts to empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status, ensure equal opportunity and reduce inequalities of outcome by eliminating discriminatory laws, policies and practices. The OECD Guidelines for Multinational Enterprises include provisions addressing a wide range of employment-related practices including prohibitions on discrimination, occupational health and safety, fair standards of employment and industrial relations and training to improve skill levels. Section 6.3.10 of the ISO 26000 Social Responsibility Guidance Standard is concerned with organizational commitment to the ILO's "fundamental principles and rights at work" discussed above.<sup>14</sup> Companies committing to the UN Global Compact bind themselves to the elimination of discrimination in respect of employment and occupation.

### **Embedding D&I in Operations and Organizational Culture**

The UN Guiding Principles on Business and Human Rights require companies to *embed* their commitment to fulfill their responsibilities to respect human rights into their operations, decision making and organizational culture and make those values and norms part of the company's DNA and the guiding principles for the company's employment and other business relationships, the development and marketing of their products and services and the activities in the communities in which they operate.<sup>15</sup> Changing the

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Ventrell-Monsees, "Age Discrimination in Employment" in R. Hudson (Editor), *The New Politics of Old Age Policy* (2d Edition) (2010), 356 (comparing protection from age discrimination in employment to protection from other forms of employment discrimination).

<sup>13</sup> [International Labour Standards on Equality of opportunity and treatment](#).

<sup>14</sup> Section 6.4.2.1 of ISO 26000 references various sources of fundamental principles relating to labor practices and social responsibility including the ILO's 1944 Declaration of Philadelphia, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.

<sup>15</sup> For further discussion of "embedding", see [A. Gutterman, \*Businesses and Human Rights of Older Persons\* \(Oakland CA: Older Persons' Rights Project, 2022\)](#).

organizational culture is a difficult and challenging process that requires patience and attention to all phases of a worker's journey through the company and the company's relationships with customers, suppliers and the members of the communities in which the company operates. Some of the steps that need to be taken were suggested by guidance on developing a corporate non-discrimination and equality policy provided by the International Labour Organization<sup>16</sup>:

- Make a strong commitment from the top by signaling that senior management assumes responsibility for equal employment issues and is committed to D&I, thus sending a strong message to other managers, supervisors and workers
- Conduct an assessment to determine if discrimination is taking place within the organization
- Set up an organizational policy establishing clear procedures on non-discrimination and equal opportunities, and communicate it both internally and externally
- Provide training at all levels of the organization, particularly for those involved in recruitment and selection, as well as supervisors and managers, to help raise awareness and encourage people to act against discrimination
- Support ongoing sensitization campaigns to combat stereotypes
- Set measurable goals and specific time frames to achieve objectives
- Monitor and quantify progress to identify exactly what improvements have been made
- Modify work organization and distribution of tasks as necessary to avoid negative effects on the treatment and advancement of particular groups of workers including measures to allow workers to balance work and family responsibilities
- Ensure equal opportunity for skills development including scheduling to allow maximum participation
- Address complaints, handle appeals and provide recourse to employees in cases where discrimination is identified
- Encourage efforts in the community to build a climate of equal access to opportunities (e.g., adult education programs and support of health and childcare services)
- Set up bipartite bodies involving workers' freely chosen representatives to determine priority areas and strategies, to identify and counter bias in the workplace and ensure that all workers are committed to the organizational goals regarding non-discrimination and D&I

In its guidance to its members on demonstrating a commitment to diversity and inclusion the National Credit Union Association ("NCUA") recommended the following<sup>17</sup>:

- Organizational leaders including the board of directors, senior officials and personnel managing the daily operations (including supplier relationships) demonstrate their

<sup>16</sup> [Questions and Answers on Business, Discrimination and Equality, International Labour Organization.](#)

<sup>17</sup> [National Credit Union Association Voluntary Credit Union Self-Assessment Checklist on Best Practices for Demonstrating a Commitment to Diversity & Inclusion, OMB No. 313340193 \(Expired 3/31/2019\).](#)

commitment to promoting D&I in both employment and contracting and fostering an organizational culture that embraces D&I

- Fair inclusion of minorities, women and other diverse and marginalized individuals (e.g., disabled persons, veterans, millennials, older workers and lesbian/gay/bisexual/transgender individuals) in the workforce is promoted through proactive expansion of the applicant pool to include diverse candidates, creation of a culture that values the contribution of all employees and encouragement of a focus on these objectives when evaluating the performance of executives and managers
- Supplier diversity policies and practices are developed and implemented to expand outreach for contracting opportunities to minority- and women-owned businesses, as well as businesses owned by members of other disadvantaged groups (e.g., elder entrepreneurs), and provide those businesses with opportunities to bid on certain contracts or procurement activities and otherwise inform them about how to do business with the organization
- Transparency and communication of information relating to D&I efforts (e.g., organizational commitments and plans and related metrics for measuring performance) is promoted through normal business methods including displaying information on websites, in any appropriate promotional materials and in annual reports to stakeholders
- Adequate time and resources are allocated to ongoing monitoring and evaluation of performance under D&I policies and practices

### **D&I and Older Workers**

Gender (33%), knowledge, skills and experience (32.4%) and ethnicity/nationality/race (24.5%) were the most common dimensions addressed in the D&I strategies covered in PwC's 2015 survey.<sup>18</sup> However, PwC counseled that the concept of diversity should be flexible and broad enough to take into account the need for “people who can think and work in highly different ways: those who can imagine and those who can implement; all-rounders and deep specialists; as well as those who can lead cross-functional, cross-sector, cross-cultural initiatives.”<sup>19</sup> In addition, diversity means finding and supporting people “who are different across all dimensions—for example other physical characteristics, life situations, experiences, perspectives and personalities.”<sup>20</sup> Among the most popular strategies to “get a good mix of talent” were the following: equipping employees with new skills through continuous learning or mobility programs, searching for a much broader range of skills when hiring, using multiple channels (including online platforms and social networks) to find talent and actively searching for talent in different geographies, industries and/or demographic segments.<sup>21</sup>

<sup>18</sup> [A marketplace without boundaries? Responding to disruption \(PwC 18<sup>th</sup> Annual Global CEO Survey, 2015\)](#), 31.

<sup>19</sup> *Id.* at 28.

<sup>20</sup> *Id.* at 31.

<sup>21</sup> *Id.*

According to Gerhardt et al., by the end of the second decade of the 21<sup>st</sup> century five generations (Silent Generation, Baby Boomers, Gen X, Millennials, and Gen Z) were together in workplaces in the US and around the world for the first time; however, conflict and tension between generations was “pointed” and widespread over a number of issues (i.e., political activism, climate change, social media, technology, privacy, gender identity etc.) and the anger and lack of trust was hurting businesses by “limiting collaboration, sparking emotional conflict, and leading to higher employee turnover and lower team performance”.<sup>22</sup> One would think that businesses would identify and proactively address generational issues in their workplaces, but the PwC survey indicate that only 8% of the organizations surveyed included age as part of their D&I strategies and that even among those organizations the strategy selected is inadequate: “simply encourage those of different generations to focus on their similarities or ... deny the reality of their differences altogether”.<sup>23</sup> Equally troubling was the finding that disability was specifically addressed in D&I strategies by only 7.2% of the organizations.<sup>24</sup> Martin and North argued that “[d]espite increased public and research attention on diversity and inclusion efforts, a closer look suggests that not all forms of diversity and inclusion have been considered equal”.<sup>25</sup> They reported that while data from the Equal Employment Opportunity Commission released in 2019 showed that 21% of discrimination claims were based on age (versus 32% for race and 30% for sex), “organizational diversity initiatives focus far more frequently on race (49%), gender (52%), and LGBTQ (lesbian, gay, bisexual, transgender, or queer; 42%) rather than age (18%)”.<sup>26</sup>

Martin and North also provided a few examples of companies and leaders that have publicly acknowledged the need for more work on diversity and inclusion in the workplace (and supported initiatives related thereto) while making statements that clearly ignored, if not actively discriminated against, older individuals. For example, while HubSpot’s 2019 Diversity Report confirms its aspirations to become “a more diverse company”, its CEO is on record admitting that the company actively excludes older individuals on the basis that “in the tech world, gray hair and experience are really overrated”.<sup>27</sup> While Facebook has invested millions of dollars in increasing diversity, it’s

<sup>22</sup> [M. Gerhardt, J. Nachevson-Ekwall and B. Fogel, “Harnessing the Power of Age Diversity”, Harvard Business Review \(March 8, 2022\)](#) (noting also that a lack of awareness and understanding of age issues can drive discrimination in hiring and promotion, leading to lawsuit risks).

<sup>23</sup> *Id.* See also [A marketplace without boundaries? Responding to disruption \(PwC 18<sup>th</sup> Annual Global CEO Survey, 2015\)](#), 31. See also [D. Cravit, “Should DEI Include Age? Only 8% of Companies Include ‘Age’ as Part of Their Diversity, Equity and Inclusion Strategy”, Everything Zoomer \(April 4, 2022\)](#).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 1.

<sup>26</sup> *Id.* (citing [Charge statistics \(charges filed with EEOC\) FY 1997 Through FY 2019. United States Equal Employment Opportunity Commission \(2019\)](#) and M. Akinola, et al., Diversity isn’t what it used to be: The consequences of the broadening of diversity. (Working Paper: Columbia Business School, 2019)). The authors also pointed out that such trends paralleled a lack of scholarly attention on ageism, compared with racism and sexism (citing [T. Nelson, “The age of ageism”, Journal of Social Issues, 72\(1\) \(2016\), 191](#) and [M. North and S. Fiske, “An inconvenienced youth? Ageism and its potential intergenerational roots”, Psychological Bulletin, 138\(5\) \(2012\), 982](#)).

<sup>27</sup> [HubSpot 2019 Diversity Report, 2](#) and [A. Bryant, “Brian Halligan, chief of HubSpot, on the value of naps”, The New York Times \(December 5, 2013\)](#).



hard to forget Mark Zuckerberg's famous 2007 statement that "younger people are just smarter".<sup>28</sup> Vinod Khosla was one of the founders of Sun Microsystems, which has been received multiple awards for diversity and inclusion; however, Khosla, who exercises a wide range of influence over startups in his role as a leading venture capitalists, has said that "people over 45 basically die in terms of new ideas".<sup>29</sup> Consistent with the statements above, Elon Musk, the founder of Tesla and SpaceX, said the following in an interview that appeared in Business Insider in March 2022: "I don't think we should try to have people live for a really long time. That it would cause asphyxiation of society because the truth is, most people don't change their mind. They just die. So if they don't die, we will be stuck with old ideas and society wouldn't advance."<sup>30</sup>

Gerhardt et al. bemoaned the way that businesses failed to effectively address the situation in their multi-generational workplaces as "a missed opportunity", arguing that "[a]ge-diverse teams are valuable because they bring together people with complementary abilities, skills, information, and networks" and that if they are effectively managed "they can offer better decision-making, more-productive collaboration, and improved overall performance—but only if members are willing to share and learn from their differences".<sup>31</sup> They said "[w]e have become so entrenched in generational name-calling ["OK, Boomer," "Gen X cynics," "entitled Millennials," and "Gen Z snowflakes"]—or, conversely, so focused on downplaying the differences that do exist—that we have forgotten there is strength in age diversity" and that "it's incumbent on leaders to embrace intergenerational teams as a key piece of the DEI puzzle and to frame them as an opportunity to be seized rather than a threat to be managed."<sup>32</sup>

## Egalitarian Advocacy and Ageism in the Workplace

<sup>28</sup> [R. Price, "Mark Zuckerberg: 'I don't think it's a secret' the tech sector has 'an issue with diversity'", Business Insider \(March 14, 2017\)](#) and [M. Coker, Startup advice for entrepreneurs from Y combinator. Venture Beat: Business \(March 26, 2007\)](#).

<sup>29</sup> [S. Bride, Special report: Silicon valley's dirty secret-age bias. Reuters \(November 27, 2012\)](#).

<sup>30</sup> [M. Dopfner, "Elon Musk discusses the war in Ukraine and the importance of nuclear power—and why Benjamin Franklin would be 'the most fun at dinner'", Business Insider \(March 26, 2022\)](#). Tesla has been heavily criticized for its poor performance on diversity metrics, particularly at the executive and managerial levels, and has been involved in a relatively high number of These concerns are particularly relevant to Tesla. Employees who sought court trials but whose cases were held in arbitration have alleged experiencing sexual harassment, discrimination, racism and violent threats. In California, over 140 discrimination complaints have been filed with the Department of Fair Employment and Housing. In New York, at least 12 employees anonymously brought concerns to a Buffalo news station. See, e.g., [Tesla's first ever diversity report shows white, male leadership \(April 12, 2022\)](#).

<sup>31</sup> [M. Gerhardt, J. NACHEMSON-EK WALL and B. FOGEL, "Harnessing the Power of Age Diversity", Harvard Business Review \(March 8, 2022\)](#). (citing the example of a multigenerational team of product developers that would likely thrive by merging the seasoned experience and broad client network of its older members with the fresh perspectives and up-to-date supplier network of its younger ones, thus allowing the group to build something no generation could on its own). See also [Leveraging the Value of an Age-Diverse Workforce \(SHRM Foundation Executive Briefing\)](#) (quoting the following statement from the CEO of AARP: "A workplace with Millennials, Gen Xers, Baby Boomers and the Silent Generation offers a unique opportunity for varied perspectives and approaches to day-to-day work.")

<sup>32</sup> *Id.*

The scope and implementation of D&I strategies and policies in the workplace is impacted by several factors including the perspectives of the social egalitarians and egalitarian advocates who typically champion D&I and are selected to take leadership roles with respect to managing the resources allocated to D&I. Martin and North described “social egalitarianism” as “an ideology which maintains that all humans are equal in worth and which prioritizes equality for all people” and conceptualized “egalitarian advocacy” as “an individual’s active orientation and motivation toward supporting equal opportunity, justice, and treatment of social groups”.<sup>33</sup> Martin and North reported that “those high in egalitarian advocacy actually engage in behaviors to create equality, such as involvement and participation in organizations (e.g., volunteering), collective action (e.g., protests), and classes on egalitarian issues (e.g., gender studies)”.<sup>34</sup>

Martin and North noted that past research had “assumed that social egalitarians reject group-based hierarchies and advocate for equal treatment of all groups”.<sup>35</sup> However, nine separate studies they conducted led them to conclude that “egalitarian advocacy predicts greater likelihood to support ‘Succession’-based ageism, which prescribes that older adults step aside to free up coveted opportunities (e.g., by retiring)”.<sup>36</sup> According to the researchers, while older individuals face their own forms of discrimination, they are perceived as “blocking younger people, and other unrepresented groups, from opportunities”, thus leading to active discrimination against older adults among egalitarian advocates.<sup>37</sup> Martin and North argued that their studies demonstrated that

<sup>33</sup> [A. Martin and M. North, “Equality for \(almost\) all: Egalitarian advocacy predicts lower endorsement of sexism and racism, but not ageism”, \*Journal of Personality and Social Psychology\* \(2021\), 3 \(citing \[R. Arneson, \\*Egalitarianism\\* \\(The Stanford Encyclopedia of Philosophy, 2013\\)\]\(#\).](#)

<sup>34</sup> [Id. \(citing \[A. Fischer et., “Assessing women’s feminist identity development: Studies of convergent, discriminant, and structural validity”, \\*Psychology of Women Quarterly\\*, 24\\(1\\) \\(2000\\), 15\]\(#\); and \[M. Liss et al., “Predictors and correlates of collective action”, \\*Sex Roles\\*, 50\\(11/12\\) \\(2004\\), 771\]\(#\)\).](#) Martin and North described “active egalitarianism” as including “actual behaviors aimed at increasing equality and inclusion, such as social activism, participation in gender and race initiatives, interest in education around race and gender issues, and political support”. [Id. at 22 \(citing \[A. Fischer et., “Assessing women’s feminist identity development: Studies of convergent, discriminant, and structural validity”, \\*Psychology of Women Quarterly\\*, 24\\(1\\) \\(2000\\), 15\]\(#\); and \[M. Liss et al., “Predictors and correlates of collective action”, \\*Sex Roles\\*, 50\\(11/12\\) \\(2004\\), 771\]\(#\)\)\).](#)

<sup>35</sup> [Id. at 1 and 3 \(citing numerous studies showing that “\[e\]galitarianism predicts not only comparably low levels of generalized prejudice, but also low levels of specific prejudices toward a number of groups, such as poor people, Latinos, Asians, Blacks foreigners, gay people, women, Arabs, Muslims, immigrants, and refugees” and noting that “\[t\]his has led many researchers to conclude that egalitarians endorse less prejudice and show more support for all disadvantaged social groups \(e.g., J. Sidanius and F. Pratto, \*Social dominance: An intergroup theory of social hierarchy and oppression\* \(Cambridge: Cambridge University Press, 2001\)\)”.](#)

<sup>36</sup> [Id. at 1. For detailed discussion of Martin and North’s studies and arguments relating to egalitarian advocacy and ageism, see \[A. Gutterman, \\*Older Persons’ Rights Movement\\* \\(Oakland CA: Older Persons’ Rights Project, 2022\\)\]\(#\).](#)

<sup>37</sup> [Id. One of the studies conducted by Martin and North confirmed that older individuals were perceived as hoarding opportunities that could go to women and racial minorities, a belief that at least partially contributed to the comparatively lower allocation of support to older individuals in diversity and inclusion initiatives. \[Id. at 11. In fact, several of the studies provided support for identifying “opportunity blocking”\]\(#\)](#)

“egalitarian advocates endorse less prejudice toward, and show more support for, women and racial minorities, but harbor more prejudice toward, and show less advocacy for, older individuals” and “perceived opportunity blocking [was] a critical mediator ... [causing] ... egalitarian advocates [to] believe that older individuals actively obstruct more deserving groups from receiving necessary resources and support to get ahead”.<sup>38</sup> Interestingly, age-based retirement expectations extended to individuals with multiple disadvantaged identities (i.e., older women and older members of racial minority groups).

According to Martin and North “bias against older individuals is likely due to a belief that older individuals have had their opportunities and, thus, are no longer in need of them, and should actively make way for others to enjoy them”.<sup>39</sup> They conceded that “older individuals have benefited in many ways from unprecedented economic prosperity across their lifetime”, but also argued that “this belief is not necessarily justified”, pointing to research showing that compared with the past, older individuals are continuing to work until an older age because they cannot afford to retire for various reasons including a lack of sufficient social security, recent economic recessions and the increased need to support to their own, grown children, who also face economic difficulties.<sup>40</sup> Data published by AARP in 2018 suggested that older individuals were being challenged to sustain themselves for longer periods of time due to increased life expectancies using savings that were at lower levels than ever before.<sup>41</sup>

Prejudice among egalitarian advocates against older adults has significant consequences for the focus and content of workplace D&I strategies and policies. For example, Martin and North found that support for women and racial minorities was outpacing, and sometimes hindering, support for older individuals and that fewer resources were being

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as a critical factor in explaining while older individuals receive less support than women and racial minorities among egalitarian advocates.

<sup>38</sup> Id. at 1 and 21. Martin and North pointed out that “it is possible that older, White, privileged men are the prototypical exemplar of the age category”; however, the reality is that “this group makes up the minority of the older demographic” and “in fact, the majority of older individuals cannot afford to retire”. Id. at 4 (citing [The Population 65 years and older in the United States: 2016. \(United Census: American Community Survey Reports, 2016\)](#) and [The value of experience: AARP multicultural work & jobs study chartbook for total respondents \(AARP Research Report, 2018\)](#)).

<sup>39</sup> Id. at 22 (citing [M. North and S. Fiske, “Act your \(old\) age: Prescriptive, ageist biases over succession, consumption, and identity”, \*Personality and Social Psychology Bulletin\*, 39\(6\) \(2013\), 720](#)). Egalitarian advocates surveyed by Martin and North affirmed their prejudices against older individuals when presented with a narrative that emphasized that included the following statements: “Although those over 65 hold more than one third of the United States wealth, have the highest savings of any generation, and are least likely to be in poverty, for many, retirement is nowhere near the horizon. Although many listed financial reasons three of the top five reasons older workers refuse to retire are because work provides enjoyment, gives them meaning, and occupies their time. It is not uncommon for people to work into their 60s, 70s, or 80s these days, and many are actively engaged in their careers, certain to avoid retirement. For the aforementioned reasons, nearly one in four American workers do not know if they will retire at all.” Id. at 26.

<sup>40</sup> Id. (citing [The value of experience: AARP multicultural work & jobs study chartbook for total respondents \(AARP Research Report, 2018\)](#) and [Older Americans are increasingly unwilling—or unable—to retire, National Public Radio \(October 9, 2019\)](#)).

<sup>41</sup> [The value of experience: AARP multicultural work & jobs study chartbook for total respondents \(AARP Research Report, 2018\)](#).

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allocated to older individuals when compared to other discriminated groups. In many cases, ageism was not a part of D&I discussions or, if it was, it was explicitly endorsed, and the researchers concluded that “when it comes to egalitarianism, equality for all may only mean equality for some” and “[t]his work highlights the increasing importance of developing initiatives, strategies, and policies to foster inclusion for everyone”.<sup>42</sup>

Martin and North were concerned that the lack of prioritization of older individuals in diversity and inclusion efforts was based on the misleading belief that older people were hoarding opportunities and set out to explore whether prejudice against older individuals could be affected by reframing beliefs. In fact, two of the studies they conducted showed that “when giving individuals information about the nature of retirement—that is, that certain older individuals cannot afford to retire—their beliefs changed to be more supportive of older individuals” and “when people were told that older people were struggling [as well as women and racial minorities] it minimized their beliefs that older people were hoarding resources”.<sup>43</sup> Several studies conducted by Martin and North showed that changing people’s baseline beliefs about older individuals’ wealth increases support for older individuals and that “those higher in egalitarian advocacy are especially amenable to this intervention, such that egalitarian advocacy predicts a greater reduction in bias when baseline views of older individuals are changed.”<sup>44</sup>

This is an important finding that should be incorporated into the efforts of advocates for older persons’ rights in the form of widespread educational programs that would provide society in general, and those egalitarian advocates who often have positions of significant influence regarding the allocation of resources within D&I programs, with a clearer picture of the economic challenges that they face along with their families and communities. Focusing on those challenges should also cause members of younger generations to consider steps that should be taken, individually and collectively, to prepare for when they themselves will be older and at risk of marginalization.

### **Assessment of D&I Policies and Practices**

One thing that companies need to do is continuously assess their D&I policies and practices in order to get a better idea of where they stand and which issues and problems should be prioritized for immediate action. There are several ways to organize the areas of inquiry for the assessment; however, the process should surely touch on commitment to D&I from organizational leadership, inclusivity in the workplace, diversity in the

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<sup>42</sup> [A. Martin and M. North, “Equality for \(almost\) all: Egalitarian advocacy predicts lower endorsement of sexism and racism, but not ageism”. \*Journal of Personality and Social Psychology\* \(2021\), 1.](#)

<sup>43</sup> Id. at 16. Martin and North found support for older individuals increased when participants in their surveys were presented with information such as the following: “Recent data suggests that baby boomers have less savings than ever before, with the median savings being just over \$150,000, and as life-expectancy increases, this amount needs to get through what could be a 30-year retirement. Further, economic recessions have affected the stability of those savings; for example, in the least recession, 401(k) accounts lost one third of their value, which forced many to continue working long beyond their original plans.” Id. at 27.

<sup>44</sup> Id. at 4.

supply chain and transparency and communications (see box below for an example of a checklist for assessment of diversity and inclusion policies and practices). The initial assessment is obviously very important and foundational to the company's entire D&I initiative; however, assessments should not be "one off" activities and there must be an organizational commitment to continuous monitoring and assessment on a regular basis, no less frequently than annually.

### **Checklist for Assessment of Diversity and Inclusion Policies and Practices**

The National Credit Union Administration ("NCUA") prepared a voluntary self-assessment checklist for credit unions to use in assessing their practices relating to diversity and inclusion in the workplace and in contracting activities. The questions covered in the assessment tracked the NCUA's standards for assessing diversity policies and practices: organizational commitment to diversity and inclusion; promotion of fair inclusion of minorities, women or other diverse individuals (e.g., disabled persons, veterans, millennials, older workers or lesbian/gay/bisexual/transgender individuals) in the workforce; development and implementation of supplier diversity policies and practices; transparency and communications and monitoring and assessment. The NCUA recommended that the assessment be carried out by the credit union's diversity or human resources office and noted that the development and implementation of successful diversity policies and practices often occurs gradually, over a period of time, which means that assessment and corresponding modifications to policies and practices must be a continuous process and carried out no less frequently than annually. The NCUA assessment framework is useful beyond credit unions and the questions below have been adapted from the NCUA framework for use by an organization:

#### **Commitment of Organizational Leadership to Diversity and Inclusion**

Does my organization:

1. Have a written diversity and inclusion policy approved by senior leadership, which includes the board of directors and senior management?
2. Have a senior level official to oversee our diversity and inclusion strategies and initiatives with knowledge of and experience in diversity and inclusion policies and practices?
3. Conduct training and provide educational opportunity on equal employment opportunities and diversity at least annually?
4. Take proactive steps to include a diverse pool of women and minorities or other diverse individual candidates for hiring, recruiting, retention, or promotion of your employees and selection of board member candidates and senior management?
5. Include diversity and inclusion considerations in our strategic plan for recruiting, hiring, retention, or promotion of our workforce?
6. Include diversity and inclusion considerations in our strategic plan in contracting with vendors?
7. Provide periodic (such as quarterly) progress reports on diversity and inclusion efforts to our board of directors or senior management?

#### **Promotion of Diversity and Inclusion in the Workplace**

Does my organization:

1. Implement policies and practices to ensure equal employment opportunities for employees and applicants for employment?
2. Implement policies and practices that create or foster diverse applicant pools for employment opportunities? These may include outreach to minority, women, or other diverse individuals; outreach to educational institutions serving significant or predominately minority, women, or other diverse student

populations and participation in conferences, workshops, and other events that attract minorities, women, or other diverse individuals to inform them of employment and promotion opportunities.

3. Communicate employment opportunities through media reaching diverse populations, including publications or professional organizations and educational institutions predominantly serving minority, women or other diverse populations?

4. Cultivate relationships with professional organizations or educational institutions that primarily serve minority, women, or other diverse individuals or organizations?

5. Evaluate our diversity and inclusion programs regularly, and identify areas for future improvement?

6. Use analytical tools, including quantitative (e.g., Employer Information Report EEO-1) and qualitative data, to assess, measure, and track our workforce diversity at all levels, including supervisory and executive ranks, by race, ethnicity, gender or other diverse categories; and the inclusiveness of our employment practices for hiring, promotion, career development, internships, or retention, by ethnicity, gender, or other diverse categories?

7. Hold management accountable for diversity and inclusion efforts, such as ensuring these efforts align with business strategies or individual performance plans?

### **Supplier Diversity**

Does my organization:

1. Have a written supplier diversity policy that provides opportunities for minority and women-owned businesses to bid to deliver business goods and services to us?

2. Have leadership support to incorporate supplier diversity into business planning cycles or initiatives?

3. Encourage by policy that some percentage (e.g., 33%) of our outside contracts solicit bids from qualified minority- and women-owned businesses?

4. Reach out specifically to inform minority- and women-owned businesses or affinity groups representing these constituencies of contracting opportunities and how to do business with us?

5. Use metrics to identify the baseline of and track:

- the amount we spend procuring and contracting for goods and services?
- the availability of relevant minority- and women-owned businesses?
- the amount we spend with minority- and women-owned businesses?
- the percentage of contract dollars awarded to minority- and women-owned businesses by races, ethnicity, and gender as compared to total contract dollars awarded for calendar year?
- the changes related to the above items over time?

6. Implement practices that promote a diverse supplier pool, which may include:

- Participation in conferences, workshops, and other events that attract minority- and women-owned businesses to inform them of our contracting opportunities?
- Maintain a listing of qualified minority- and women-owned businesses that may bid on upcoming contracting opportunities?
- Have an ongoing process to publicize our contracting opportunities?

7. Encourage prime contractors to use minority- and women-owned subcontractors by incorporating this objective in their business contracts?

8. Continuously consider expanding its supplier diversity outreach and practices to include businesses other than minority- and women-owned businesses that are owned by persons who are members of other disadvantaged groups?

### **Transparency**

Does my organization:

1. Periodically compile information about our efforts to enhance diversity and inclusion suitable for publication, which may include:

- Demographic information on workforce composition (such as that found on an annual EEOC report)?
- Demographic information on supplier diversity (contracting activities)?
- Demographic information on the board members and other officials?
- Information on sponsorships or partnerships with diverse organizations?
- Other information on our diversity and inclusion efforts?

2. Make the following information public:

- Our diversity and inclusion strategic plan?
- Our policy on the organization's commitment to diversity and inclusion in the workforce?
- Our policy on the organization's commitment to diversity and inclusion to supplier diversity?
- Our efforts and progress toward achieving diversity and inclusion in our workforce and contracting activities?

3. Publicize opportunities that promote diversity and inclusion, which may include employment and internship opportunities, contracting opportunities, mentorship or developmental programs for employees and/or developmental programs for potential contractors?

#### **Continuous Monitoring and Assessment**

Does my organization:

1. Conduct self-assessments of our diversity policies and practices annually based on standards that have been adopted and implemented by organizational leaders?
2. Modify our diversity policies and practices based on the results of the self-assessment or evaluation of our diversity policies and practices?
3. Publish information pertaining to the self-assessment or evaluation of our diversity policies and practices annually?
4. Publish information pertaining to our efforts with respect to our diversity standards?

**Source:** National Credit Union Association Voluntary Credit Union Self-Assessment Checklist on Best Practices for Demonstrating a Commitment to Diversity & Inclusion, OMB No. 313340193 (Expired 3/31/2019).

### ***Understanding Workforce Diversity***

Companies should continuously take stock of where they stand in terms of diversity among the members of the workforce. To determine where to prioritize the steps necessary to improve fairness and equality throughout the organization, companies need to collect data relating to recruiting, promotions, salaries and other issues that can be used to identify situations in which the company's practices may be biased. Surprisingly, many companies do not track the necessary data, which means that their leaders may not understand that problems exist with respect to workplace diversity or gender and racial gaps in pay. This is not a simple process at the very beginning because it will require going back in time to assess many employment-related decisions including decisions made by persons who are no longer with the company. As the data is collected steps

should be taken to create a permanent system so that performance can easily be tracked and measured in the future.

At the same time the information described above is being collected the company should analyze the skill sets of the current group of employees and the skills and experience that the company would ideally like to have throughout its workforce. This is important because the drive toward greater diversity must be aligned with the business needs of the company. Companies cannot sustain their drive toward D&I unless they either focus their recruiting efforts on underrepresented groups that have the skills and experience that the company requires or commit to providing members of those groups (and everyone else in the company) with the training and other support necessary for them to be successful in their professional development with the company. The company should also work to have a better understanding of the relationship between its customer base and the diversity of its workforce. It is important to have a diverse workforce that mirrors the customer base, which means ensuring that core business units such as product development, marketing, sales and customer service include employees who can raise concerns about discriminatory, exclusionary or insensitive actions in their areas and in the company's training and external messaging (e.g., advertisements that are ageist, racist or culturally inappropriate). In addition, increasing diversity in the workforce allows the company to credibly pursue new business opportunities that advance age equity by recognizing and serving the specific needs of markets of older consumers and avoid products or services that are discriminatory or exclusionary towards older persons.

### **D&I Planning**

Achieving and maintaining D&I in the organization is a challenging project and requires a plan that can be used to guide the company through the necessary steps and establish milestones that can be referred to assess whether the measures taken have had the desired and expected impact. A D&I plan should begin with a statement of the company's mission, namely growing a diverse workforce in an inclusive work environment, and an affirmation of the company's commitment to the fundamental values of D&I. The plan should then set out specific strategic goals with respect to D&I, such as assembling a workforce that reflects all segments of society, establishing an inclusive and engaged organizational culture, promoting diversity in the company's supply chain and participating as a contributor and advocate in community-based efforts to promote social justice, equality and economic wellbeing. Each goal should have several specific objectives (e.g., with respect to achieving diversity in the workforce, one of the objectives should be eliminating institutional barriers to equal employment opportunities) and strategies for achieving each objective. Finally, the plan should incorporate metrics that can be referenced to track performance for each of the objectives and the company's overall progress toward achieving its goals relating to diversity and inclusion. For the plan to be relevant and effective it needs to be based on solid information collected and analyzed in advance relating to the company's current D&I profile and the specific concerns of the company's employees, customers and other stakeholders. The company should prioritize its goals and objectives giving greater weight to initiatives that address



the most immediate problems and/or are likely to have the strongest immediate positive impact on improving D&I.

The D&I plan is obviously an important internal roadmap for the company; however, the company should also commit to transparency in disclosing its D&I strategies and results to stakeholders as part of the company's overall reporting on social responsibility issues. News reports indicate that only 40% of larger companies are transparent about the gender and racial makeup of their employees and CEOs often balk at setting and announcing measurable targets relating to diversity in their workforces. Given the pressures for change, this lack of clarity cannot continue, and companies must be prepared to provide data relating to recruiting, promotion, wages and other issues as to which bias is likely to arise and commit to measurement and reporting on meaningful indicators of D&I. Reporting must be continuous and regular so that stakeholders can measure and assess progress or backsliding and should include commentary that goes "beyond the numbers" so that stakeholders have a better understanding of the actions that the company has taken and the reasons for their success or failure. The NCUA argued that transparency regarding an organization's D&I initiatives including commitments and plans and related metrics for measuring performance sends an important signal to a broad constituency of current and potential employees, customers, suppliers and the communities in which the organization operates.<sup>45</sup> Companies need to be bold and fearless about reporting in this area and accept that mistakes may be made and that stakeholders will likely be forgiving within reasons as long as companies move quickly to address problems and grievances.<sup>46</sup>

## **D&I Policies**

A fundamental element of company's efforts to embed D&I is an anti-discrimination policy that makes it clear that the company will have "zero tolerance" for all forms of discrimination, including ageism, and commits the company to take swift action to discipline workers who engage in actions that discriminate against co-workers, customers and community members on the basis of membership in any class recognized and protected by law and broader international human rights standards (i.e., color, religion, disability, national origin, genetic information, sex (including pregnancy), age, sexual orientation, gender (including gender identity and expression), marital status, protected veterans status and citizenship status). The policy should also refer to the scope of employment-related actions and activities that are covered by the protections guaranteed in the policy, such as recruitment, hiring, compensation, promotions, transfers, discipline, demotions, terminations, layoffs, access to benefits and training and all other aspects of employment, as well as to selection of volunteers and vendors and provision of services.

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<sup>45</sup> National Credit Union Association Voluntary Credit Union Self-Assessment Checklist on Best Practices for Demonstrating a Commitment to Diversity & Inclusion, OMB No. 313340193 (Expired 3/31/2019).

<sup>46</sup> Emerging sustainability reporting frameworks, such as the Global Reporting Initiative, include various metrics that relate to aspects of diversity, equality and inclusion such as the implementation of policies and programs promoting equal opportunities; the ratio of basic salary and remuneration of women to men by employee category, by significant locations of operation; significant indirect economic impacts, including the extent of impacts, by significant; and the ratio of basic salary and remuneration of women to men by employee category, by significant locations of operation.

The policy should include the company's affirmation of its commitments to providing an inclusive and welcoming environment for all employees, customers, volunteers, subcontractors and vendors and the expectation that every employee will show respect for all the company's colleagues, customers, volunteers, subcontractors and vendors. Special reference should be made to prohibitions on harassment that is based on any status protected by law or the company's policies. Anti-discrimination policies should provide employees and others with instructions on how to contact the company to make suggestions and report violations of the policy and should provide assurances to reporting persons that they will not be subject to retaliation. The consequences of violating the policy, including disciplinary actions up to and including termination, should also be explained in the policy.

The development and publication of the anti-discrimination policy should also be used as an opportunity for the company to make a public affirmation of its commitments and actions relating to D&I. For example, the policy should include a commitment to creating an equitable workplace where diverse life experiences are respected and valued and an affirmation by the company that D&I are paramount to its mission. Companies may incorporate a list of the actions that have been taken to both promote D&I and ensure equal opportunities to all employees. The list should obviously reflect the specific actions taken by the company, but might include, without limitation, the following:

- Modified company facilities for people with mobility challenges
- Guaranteed generous parental leave policy for new parents of adoptive and biological children
- All employees permitted to submit requests for additional days of leave due to religious holidays
- Compulsory sensitivity training for all senior employees and managers
- Attendance to any holiday events is voluntary and nondenominational
- On site/emergency childcare is available to those who need it
- Regular employee surveys gather consensus on attitudes around D&I
- Formal leadership training to mitigate biases and increase cultural competency
- Informal discussion sessions and support groups to discuss bias and equity issues
- Collecting resources for educating employees about issues relating to D&I
- Flexible-work programs for individual mitigating cases including health problems, family and religious commitments
- Blind screening of résumés and diverse interview panels for job candidates
- Recruitment outreach initiatives for more diverse talent pools
- Gender-neutral restrooms and non-binary gender choices on surveys

Many of the actions will have their own policies and procedures which can be referenced in the anti-discrimination policy (e.g., leave policies, flexible work programs and training on bias and equity issues). Consideration should also be given to including a specific commitment to age equity and justice and embedding an age equity lens into the

company's leadership and staff structure, advocacy and community engagement activities and organizational policies and communications.

The policy should be specifically reviewed and approved by the board of directors and should be widely disseminated including in the company's employee handbook and code of conduct. In addition, the policy should be incorporated into job announcements, posted on the company's website and included in all of the company's career and diversity-related materials. To emphasize the importance that the company places on preventing age-based discrimination and harassment, each employee should be required to deliver a written acknowledgement that he or she has received, read and understood the policy and had an opportunity to ask questions and provides comments relating to the policy. New employees should be required to do the same thing before their employment with the company begins and the acknowledgement should be delivered in person so that a representative of the company is able to directly ask the candidate if he or she understands the policy. When presenting the policy to employees, the company needs to be prepared to explain how situations involving ageism will be handled and encourage open communication regarding age equity in the workplace. Employees need to feel comfortable about reporting ageism (including incidents that they see happening to someone else) and processes need to be implemented to facilitate anonymous reporting so that employees do not remain silent due to fear of retaliation.

### **Organization of D&I Activities**

Iyer and Kirschenbaum noted that the D&I efforts of companies are often carried out separately from the business units that are primarily responsible for market expansion, the quality of customer service or human resources. They encouraged companies to implement organizational structures and expectations of accountability that embedded D&I into operations such as forming a permanent D&I working group or team with relevant experience and expertise drawn from throughout the company (e.g., engineers, data scientists, researchers, designers etc.) to focus exclusively on advancing inclusion and rooting out bias in key activities such as product design, marketing and customer service. Similarly, older workers from all parts of the company, including hourly employees, women and people of color, need to be given a voice in the creation, implementation and assessment of all employment-related processes. The working group created to develop the company's commitments to action regarding age equity and respect for the civil and human rights of older persons should also be involved in organizational change initiatives.<sup>47</sup>

Ideas about the composition of the D&I working group and the manner in which it carries out its responsibilities can be gleaned from suggestions made by Lee on forming a staff-led taskforce, working or committee on D&I.<sup>48</sup> The first suggestion related to the

<sup>47</sup> [L. Iyer and J. Kirschenbaum, How Companies Can Advance Racial Equity and Create Business Growth \(April 8, 2019\).](#)

<sup>48</sup> [Y. Lee, "Diversity, Equity and Inclusion in the Workplace | Tips for Starting a DEI Committee", Idealist \(July 18, 2019\)](#)

composition of the group and the need to ensure that it includes a diverse team of employees so that discussions and actions will take into account the wide range of viewpoints throughout the workplace. Passion for D&I is certainly an important qualification for serving on the group and anyone who can bring that type of energy to the issues should be considered; however, an effort must be made to identify under-represented groups and not only bring them on to the team but also consider the reasons why employees might be reluctant to participate. In addition to making sure that the composition of the group is racially and ethnically diverse, there should be representation from all levels in the organizational hierarchy and from each of the key business groups or departments.

Another suggestion from Lee was establishing clear goals, roles and relationships in order to define the group's scope of work and how it operates internally and relates to leaders of the organization and other groups that have the authority to implement the actions recommended by the group. In general, members of the working group will still be expected to work on their preexisting day-to-day responsibilities so they will have limited time to invest in the group's activities. As such, consensus should be reached on which D&I issues are most pressing for the company. This process should begin with sharing of stories and experiences among the members of the group, but the group should also go outside its own boundaries to seek input from other employees. Once the issues have been identified, the group needs to consider its internal and external capacities to do the work necessary to make an impact on each issue (e.g., are there members of the group with specific experience and skills that can be leveraged to develop effective solutions for an issue) and make decisions about which of the issues the group can have the most influence on.

The working group also needs to establish boundaries as part of the process of identifying the issues that it will concentrate on and developing proposed solutions for those issues. The working group will typically not have the authority or the control over specific resources to implement that solutions that it might recommend and there needs to be clarity on just what is expected from the working group and what actions will need to be taken by the leaders of the organization (e.g., directors and members of the executive team) and other departments or business units that are specifically responsible for the policies, processes and actions relating to a particular issue. For example, it is likely that the working group will be grappling with issues relating to improving diversity in the company's recruiting pipeline and the work on that issue needs to be coordinated with the human resources department, which needs to be supportive of the participation by the working group and willing to provide the working group with the data necessary for the group to understand the company's current diversity profile. Provision should also be made for the working group to receive technical assistance from other parts of the company to carry out its activities, such as assistance in creating and disseminating surveys to collect information and setting up meetings with employees outside of the group to hear their concerns and suggestions.

Lee's suggestions were focused on what would initially be a largely volunteer effort organized and supported by the company that depended on employees willing to commit

time to the working group in addition to what they might already be doing for the company. In contrast, Iyer and Kirschenbaum called for companies to form a permanent full-time D&I working group or team, meaning that members would be pulled off of their previous assignments and be required and allowed to spend all of their time working on D&I issues with experienced colleagues from other parts of the company.<sup>49</sup> The decision depends on a variety of factors, notably the size of the company and the ability of the company to reallocate resources to a full-time group. It might be best to start with a voluntary group, properly staffed and operating with the explicit and public support of the company's leaders, and then determine how best to integrate the D&I working group into the company's permanent organizational structure. While having a full-time team working on D&I issues is useful, care must be taken to ensure that the team continues to work well with the relevant departments and business units and that steps are taken to embed D&I directly into those groups.

## Recruiting

Companies can do several things to expand diversity in the recruitment pool including focusing on local communities and dramatically expanding the size of internship programs and committing to setting aside a significant portion of the slots to underrepresented groups and providing them with mentors and support and a clear path to full-time employment in jobs that come with real development and progression opportunities. Companies should also democratize the recruitment process by eliminating questions on employment applications and testing that disproportionately exclude applicants from underrepresented groups and eliminating college degree requirements for jobs that do not actually require higher education. The initial goal of these changes is to bring more members of underrepresented groups into the workplace; however, the jobs in question are typically entry level and thus not necessarily optimal from a long-term perspective and it is therefore important to be sure that these jobs come with a living wage and are accompanied by eligibility for other skills development and educational programs sponsored by the company.

## Practices for Creating an Age-Diverse Workplace

Research conducted by the AARP Public Policy Institute among companies seeking to integrate better D&I practices for an age-diverse workforce identified the following practices that have promise for “boosting age diversity and enhancing intergenerational understanding” and nurturing the talents of employees of all ages<sup>50</sup>:

- Open apprenticeships to workers of all ages
- Start a program to assist workers re-entering the workforce after a long absence
- Facilitate cross-generational mentoring to improve knowledge transfer

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<sup>49</sup> L. Iyer and J. Kirschenbaum, How Companies Can Advance Racial Equity and Create Business Growth (April 8, 2019), <https://www.fsg.org/blog/how-companies-can-advance-racial-equity-and-create-business-growth>

<sup>50</sup> [Leveraging the Value of an Age-Diverse Workforce \(SHRM Foundation Executive Briefing\)](#), 2.

- Raise awareness of intergenerational differences to enhance team functioning
- Organize employee resource groups (e.g., problem-solving or leadership-development groups) that increase workers' engagement and provide mentoring opportunities
- Actively recruit talent across all ages to build a diverse, experienced workforce
- Hold managers accountable for implementing CEO-approved D&I strategies throughout all levels of the organization

Gerhardt et al. claimed that the evidence shows “that when time-tested [D&I] tools are used to bridge age divides, they can reduce conflict and generational stereotypes and improve organizational commitment, job satisfaction, employee turnover, and organizational performance”.<sup>51</sup> In their 2021 book, *Gentelligence*, they laid out a framework “for moving colleagues away from generational conflict and toward a productive embrace of one another’s differences” that was based on adapting four core best practices<sup>52</sup>:

- **Identify the stereotypical assumptions** that are being made about members of generational groups (including assumptions that members of a group might be making about themselves) and understand how they may be impeding recognizing and understanding “teammates’ true selves as well as the skills, information, and connections they have to offer”.
- **Adjust the lens** of each of the members of the organization so that they begin to consider whether they have been judging someone’s actions and attitudes based only on their frame of reference and not considering *why* colleagues from different generational groups might behave differently with respect to a particular situation.
- **Identify and leverage productive differences** among members of different generations to take advantage of the diversity of available perspectives, knowledge and networks.
- **Embrace mutual learning** by first working to ensure that all members of intergenerational teams can learn from their colleagues in different age cohorts and then establishing practices for mutual learning and mentoring for peers from all age groups to comfortably teach and learn from one another in a continuous loop.

Gerhardt et al. suggested exercises that organizations could use to promote the above-referenced practices.<sup>53</sup> For example, assumption audits require that organizational members make a conscious effort to be on alert for age-based assumptions that they see being used in day-to-day work activities and then the entire group will meet regularly to discuss what they’ve seen and begin to build awareness of why age-based assumptions exist and why members of other generations act differently to a particular situation. To

<sup>51</sup> [M. Gerhardt, J. Nachemson-Ekwall and B. Fogel, “Harnessing the Power of Age Diversity”, Harvard Business Review \(March 8, 2022\).](#)

<sup>52</sup> [M. Gerhardt, J. Nachemson-Ekwall and B. Fogel, \*Gentelligence: The Revolutionary Approach to Leading an Intergenerational Workforce\* \(Lanham Maryland: Rowman & Littlefield Publishers, 2021\).](#) The summary of the four practices (included quotations) is adapted from the description provided by the authors in [M. Gerhardt, J. Nachemson-Ekwall and B. Fogel, “Harnessing the Power of Age Diversity”, Harvard Business Review \(March 8, 2022\).](#)

<sup>53</sup> Id. Examples of how each of the exercises might be applied are provided in the article.

“adjust the lens”, Gerhardt et al. recommended use of the “describe-interpret-evaluate” exercise: have each member *describe* a frustration they have with a member of a different generation; have them describe their initial *interpretation* of the person’s behavior; and have them identify a feasible alternative *evaluation* of the initial interpretation. Contributions from the other members of the group, including members of different generations, should also be solicited as a foundation for a general discussion so that everyone has a better idea of why members of different generations respond differently to a particular situation. Identifying and leveraging productive differences can be facilitated through intergenerational roundtables, which are regularly scheduled monthly or quarterly meetings called for the specific purpose of finding common ground and similarities, introducing and vetting unique viewpoints and setting goals about how to improve the functioning of intergenerational teams. Finally, mutual learning can be facilitated by forming and supporting an informal mutual mentoring network that is based on incorporating exactly what members of all ages are interested in learning and teaching.

Incorporating age into D&I strategies must also overcome stereotypical assumptions regarding the skills and willingness to learn of older workers. For example, the CEOs participating in the 2015 Annual Global CEO Survey told PwC that they were looking for a “much broader range of skills than in the past” when searching for new talent and that technological skills, particularly in relation to integrating digital technologies throughout their enterprises to get the most out of their substantial digital investments, were especially important.<sup>54</sup> Digital dexterity is generally seen as being the exclusive province of younger generations. In fact, the CEO Survey quoted one CEO who was focused on what the CEO called “Generation T” and declared that businesses must “think differently about how we serve the young talent [and] what type of opportunities, networking and type of culture you need to develop as a company.”<sup>55</sup>

All this is certainly true as it applies to “young talent”; however, older workers, especially those who have spent decades developing and implementing a succession of the innovative technologies that have brought us to where we are today, have a role to play and should not be ignored simply because of their age. The unconscious bias against older workers that paints them as unable or unwilling to learn and deploy new technologies must be explicitly acknowledged and addressed in D&I strategies and in the practices related to those strategies including training and management of intergenerational teams.<sup>56</sup> It is true that the digital skills of older Americans in general lag those of younger Americans and there are also gaps in such skills between older Americans from historically oppressed groups (i.e., people of color and women) and

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<sup>54</sup> [A marketplace without boundaries? Responding to disruption \(PwC 18<sup>th</sup> Annual Global CEO Survey, 2015\)](#), 29.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 32. Noting that, in general, “[new] employees who don’t fit stereotypical characteristics for particular roles often struggle to succeed in the workplace”, reinforcing the need for careful processes for integrating new employees so that the organization can realize the benefits of the differences that they bring to the conversation or project.

older White workers.<sup>57</sup> However, there is evidence that older workers can significantly improve their digital skills with proper training and support and providing them with such a foundation allows employers to access numeracy and literacy skills that are, on average, higher than among younger Americans, thus creating multigenerational teams with a broader overall set of skills. Moreover, including technology-savvy older workers on product development teams provides companies with insights on how to design and market products for older consumers with significant purchasing power.

## Training

The effectiveness of the company's policies and procedures relating to D&I and age equity depends on its commitment to providing rigorous training to help all employees understand the underlying causes of the problems, how age discrimination occurs in the workplace and what steps must be taken to change values, norms and behaviors. Training must be required for and provided to everyone in the organization ranging from directors and members of the executive team to hourly workers. Companies also need to develop function-specific training for key target groups including procurement employees, sales and export staff, human resources, security staff, and all supervisors and managers. In addition to specific age equity training, companies should also examine all their leadership, management and professional development training and activities and make appropriate modifications to ensure that they incorporate the overriding concepts of diversity and inclusion. A range of training tools can be used, including classroom sessions, workshops, e-learning systems, and "on the job" training at the locations where a specific human rights impact is likely to be occurring. Customized handbooks with guidelines and illustrations can be created and distributed to supervisors and managers. When developing the training curriculum, input should be sought from employees, stakeholders in local communities, and outside experts including NGOs.<sup>58</sup>

Age equity in the workplace cannot be achieved unless and until everyone in the organization appreciates and respects the diverse experiences of their colleagues and understands that diversity and inclusion will lead to a stronger organizational culture, a vibrant working environment and an engine for innovative products and services that will support a sustainable enterprise. Age discrimination in the workplace is an extremely sensitive issue that requires painful personal introspection and difficult conversations; however, business leaders need to understand that ageism can and will damage their companies in several ways. Age discrimination will certainly expose the company to potential legal liabilities, but even more corrosive is how ageism can divide the workforce and undermine morale, teamwork and productivity. In addition, in a world in which news spreads quickly over social media, incidents of discrimination can quickly

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<sup>57</sup> [I. Hecker, S. Spaulding and D. Kuehn, Digital Skills and Older Workers: Supporting Success in Training and Employment in a Digital World, Urban Institute \(September 2021\).](#)

<sup>58</sup> A Guide for Integrating Human Rights into Business Management (Business Leaders Initiative on Human Rights, United Global Compact and Office of the High Commissioner for Human Rights, 2004), 31-32. Resources for human rights training for businesses are available from a variety of institutions such as the [Institute for Human Rights and Business](#).



and permanently tarnish a company's reputation and brand, causing it to lose customers and making it more difficult for the company to recruit, engage and retain diverse talent.

Age equity training involves tackling sensitive issues such as internalized ageist stereotypes and "unconscious bias" that may affect decisions that are made within organizations and how people communicate with one another in the workplace. Training sessions should be set up in ways that promote open and safe discussions about ageism and research indicates that companies that are willing and able to facilitate dialogue have been able to build stronger bonds and greater understanding. It should be expected that younger people who are challenged on their age-related beliefs during the training sessions will act defensively, often expressing emotions such as fear, anger and guilt. Younger employees may also have concerns about how proposed diversity and inclusivity actions might undermine the opportunities and access to resources they have been accustomed to. Concerns from all sides need to be aired, but debating should be avoided, and all employees, regardless of age, need to clearly understand what is at stake and what their lives in the workplace will be like once changes have been implemented. This is the point at which all employees need to be educated and reassured about the benefits to everyone in the company from setting aside inequitable practices.

Training should be accompanied and supported by the internal research and assessment procedures mentioned elsewhere to identify the areas of possible bias that are specific to the company and using that information to develop potential solutions that can be incorporated into the training and related policies and procedures and metrics that can be tracked over time to assess whether the training has been effective. When conducting the research, the company should search for implicit biases in hiring practices, performance evaluations, work assignments, promotions and compensation decisions. Solutions might include revising job qualifications and descriptions, using software to screen applicants and reconsidering the criteria used to evaluate job performance. Training sessions should also include discussions around specific scenarios in which age might be an issue with the goal of reaching a consensus on objective criteria that can be used for making decisions rather than leaving outcomes to personal judgment that might be based on unconscious bias.

Age equity training alone will not guarantee success, but it is an essential tool for establishing and continuing dialogue. Certain elements of the training need to be mandatory to demonstrate that the company has taken steps to ensure that all employees are aware of their duties under the law and the company's own internal policies and codes of conduct. According to guidance from the Society for Human Resource Management ("SHRM"), companies should offer additional training and opportunities for dialog beyond the mandatory sessions and not compel attendance since people who do not want to be there will often undermine the value of the meetings by acting hostile or reacting defensively. Training sessions should be led by experienced facilitators and should begin with an explanation of the ground rules for discussions so that everyone feels comfortable sharing their experiences and opinions. SHRM encouraged companies to make learning interactive and experiential, avoiding long lectures from someone in the

front of the room at a podium, and to make sure that everyone walks out of the room with practical steps that can be immediately used to overcome unconscious biases.<sup>59</sup>

## Conclusion

Recruiting and retaining older workers should be part of a broader initiative to increase diversity throughout the organization. The chances for success in a diverse world are enhanced when a company can call on the experiences and viewpoints of different races, religious backgrounds, genders, nationalities and physical abilities. A diverse workforce is a fertile ground for innovation and new ideas and can lead to the company being recognized in the marketplace and communities as a credible champion of diversity and economic equality. Achieving diversity will require attention to several types of strategies and tactics. For example, companies will usually need to expand the geographic scope of their recruiting activities to reach groups that may be underrepresented in the current workforce. Changing and maintaining the organizational culture of the company is also essential so that workers from “different” backgrounds feel welcome and accepted once they join the company. This will require that companies provide diversity training and opportunities for workers from different backgrounds to work together. Companies need to focus on retention to ensure that their diversity initiatives do not stagnate, which means taking special care to regularly engage with women, people of color, workers with disabilities and older workers to identify and understand potential problems before people decide to leave the company. Also important is seeking and achieving diversity among the holders of senior positions in the company, which not only expands the lens used for strategic decisions but also provides workers at lower levels with role models within the company and a sense that the company is open to supporting their professional development goals through promotions.

## Ideas for Promoting Workplace Equality, Diversity and Inclusion

### Recruiting Strategies for Equality and Diversity

- Create a company equality, diversity and inclusion (“EDI”) policy and explicitly integrate EDI into the company’s mission statement and external communications
- Expand the scope and diversity of the company’s recruiting efforts and promote the company’s commitment to EDI to potential candidates
- Initiate equal pay policies across the organization and make sure they are always applied in the interview process and when job changes/promotions occur (i.e., no negotiations or exceptions)
- Make initial candidate screening a blind screening and have a structured interview process that includes a diverse group of employees
- Ensure that onboarding, initial training and the first months on the job are smooth for all new hires
- Develop and implement specific hiring practices for veterans and to avoid ageism
- Provide socioeconomic assistance to supplement salaries to assist employees with achieving a viable standard of living (e.g., affordable housing option and employee cafeterias)

### Workplace Strategies to Improve Morale and Inclusivity

<sup>59</sup> [A. Hirsch, “Taking Steps to Eliminate Racism in the Workplace”, Society for Human Resource Management \(October 22, 2018\)](#)

- Publish signage and notification of EDI policies and keep company language gender-neutral
- Have open lines of communication where EDI issues can be discussed and improved upon
- Provide sensitivity and unconscious bias training and training on team building and communications styles
- Support the creation of affinity groups within the company and encourage management involvement with those groups
- Allow groups, or the company, to do community outreach and encourage management involvement with outreach activities
- Initiate corporate-wide culture change for diversity and inclusion
- Ensure diversity among participants in all company committees and working groups and inclusivity in the processes of the processes of such committees and working groups
- Bring in third parties to observe interactions in the workplace and solicit input from external stakeholders (e.g., customers and community members)
- Instill a PTO day for voting
- Proactively make reasonable allowances for religious practices in the workplace
- Hand out health and wellness reimbursements and offer tuition reimbursement and support for continued education
- Offer flexible PTO and reasonable opportunities for remote working and telecommuting
- Provide subsidized child care or on-site daycare for parents or those with guardianship of children and offer wide ranging healthcare options to cover those with domestic partners or who have the care of elder relatives
- Facilitate employee mentorship programs
- Have a formal and transparent process for moving up in the company and provide career development for employees with varied backgrounds
- Have regular company meetings to keep everyone informed and up-to-date on happenings, and get a pulse of the company
- Offer flexible parental leave for new parents
- Offer mental health resources

**Source:** Adapted from [55+ Ideas to Promote Inclusion and Workplace Diversity in 2020 \(February 28, 2019\)](#).

PwC suggested that CEOs needed to carefully consider and address the following questions with respect to creating and maintaining their D&I strategies<sup>60</sup>:

- How are you getting the visibility that you need to ensure that skills are being deployed effectively in your organization? D&I strategies must include mechanisms for monitor progress with respect to recruitment, integration and the progress of diversified (intergenerational) teams.
- Are you measuring how D&I contributes to your bottom line and assessing its impact on the capabilities you have or need to develop? Anecdotal evidence regarding “wins” from D&I are fine and make for good communications content; however, the case for hiring older workers is, unfortunately, a difficult one to make and needs support from hard data that demonstrates the contributions being made by older workers and stronger acceptance of the company’s products and services among older consumers.

<sup>60</sup> [A marketplace without boundaries? Responding to disruption \(PwC 18<sup>th</sup> Annual Global CEO Survey, 2015\)](#), 33.

- How are you ensuring that your organization has access to the skills it needs now and in the future and what strategies do you have in place to ensure that you are looking as widely as possible for talent? A concerted effort needs to be made to identify how and where qualified older workers can be engaged in the recruiting process.
- What measures of diversity are important to help your organization achieve its goals? A diverse and inclusive workplace includes many different types of people of different races, ethnicities, genders, sexual orientations, physical abilities, ages, or other characteristics, all of whom rightfully feel fully integrated and comfortable within the organization. D&I strategies need to include metrics for measuring performance across a range of factors including employee engagement, identifying and addressing areas of unconscious bias, equitable practices in recruitment and distribution of diverse talent both at different levels in the organization and within specific teams.<sup>61</sup>

### Additional Resources

- [J. Bersin and K. Enderes, "Elevating Equity: The Real Story of Diversity and Inclusion", Josh Bersin Academy and Perceptyx \(2020\)](#)
- [J. Bourke, S. Garr, A. van Berkel and J. Wong, "Diversity and inclusion: The reality gap", Deloitte Insights \(February 28, 2017\)](#)
- [S. Bride, Special report: Silicon valley's dirty secret-age bias, Reuters \(November 27, 2012\)](#)
- [D. Cravit, "Should DEI Include Age? Only 8% of Companies Include 'Age' as Part of Their Diversity, Equity and Inclusion Strategy", Everything Zoomer \(April 4, 2022\)](#)
- [M. Gerhardt, J. Nachemson-Ekwall and B. Fogel, Gentelligence: The Revolutionary Approach to Leading an Intergenerational Workforce \(Lanham Maryland: Rowman & Littlefield Publishers, 2021\)](#)
- [M. Gerhardt, J. Nachemson-Ekwall and B. Fogel, "Harnessing the Power of Age Diversity", Harvard Business Review \(March 8, 2022\)](#)
- [Hecker, S. Spaulding and D. Kuehn, Digital Skills and Older Workers: Supporting Success in Training and Employment in a Digital World, Urban Institute \(September 2021\)](#)
- [Hirsch, "Taking Steps to Eliminate Racism in the Workplace", Society for Human Resource Management \(October 22, 2018\)](#)
- [L. Iyer and J. Kirschenbaum, How Companies Can Advance Racial Equity and Create Business Growth \(April 8, 2019\)](#)
- [Y. Lee, "Diversity, Equity and Inclusion in the Workplace | Tips for Starting a DEI Committee", Idealist \(July 18, 2019\)](#)
- [Martin and M. North, "Equality for \(almost\) all: Egalitarian advocacy predicts lower endorsement of sexism and racism, but not ageism", Journal of Personality and Social Psychology \(2021\)](#)
- [O. Staley, "Out of corporate America's diversity failures, a new industry is emerging", Quartz \(October 10, 2017\)](#)
- [A marketplace without boundaries? Responding to disruption \(PwC 18<sup>th</sup> Annual Global CEO Survey, 2015\)](#)
- [How to Measure Diversity and Inclusion: Understanding If Your DEI Programs Are Working \(Millan Data Science Strategies\)](#)
- [International Labour Standards on Equality of opportunity and treatment](#)
- [Leveraging the Value of an Age-Diverse Workforce \(SHRM Foundation Executive Briefing\)](#)

<sup>61</sup> See, e.g., [How to Measure Diversity and Inclusion: Understanding If Your DEI Programs Are Working \(Millan Data Science Strategies\)](#).

- [National Credit Union Association Voluntary Credit Union Self-Assessment Checklist on Best Practices for Demonstrating a Commitment to Diversity & Inclusion, OMB No. 313340193 \(Expired 3/31/2019\)](#)
- [Older Americans are increasingly unwilling—or unable—to retire, National Public Radio \(October 9, 2019\)](#)
- [The value of experience: AARP multicultural work & jobs study chartbook for total respondents \(AARP Research Report, 2018\)](#)
- [Questions and Answers on Business, Discrimination and Equality, International Labour Organization](#)
- [Winter 2022 Fortune/Deloitte CEO Survey](#)

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### About the Author

This Work was written by Alan S. Gutterman, whose prolific output of practical guidance and tools for legal and financial professionals, managers, entrepreneurs and investors has made him one of the best-selling individual authors in the global legal publishing marketplace. His cornerstone work, *Business Transactions Solution*, is an online-only product available and featured on Thomson Reuters' Westlaw, the world's largest legal content platform, which includes almost 200 book-length modules covering the entire lifecycle of a business. Alan has also authored or edited over 100 books on sustainable entrepreneurship, leadership and management, business law and transactions, international law and business and technology management for a number of publishers including Thomson Reuters, Practical Law, Kluwer, Aspatore, Oxford, Quorum, ABA Press, Aspen, Sweet & Maxwell, Euromoney, Business Expert Press, Harvard Business Publishing, CCH and BNA. Alan has extensive experience as a partner and senior counsel with internationally recognized law firms counseling small and large business enterprises in the areas of general corporate and securities matters, venture capital, mergers and acquisitions, international law and transactions, strategic business alliances, technology transfers and intellectual property, and has also held senior management positions with several technology-based businesses including service as the chief legal officer of a leading international distributor of IT products headquartered in Silicon Valley and as the chief operating officer of an emerging broadband media company. He has been an adjunct faculty member at several colleges and universities, including Berkeley Law, Golden Gate University, Hastings College of Law, Santa Clara University and the University of San Francisco, teaching classes on corporate finance, venture capital, corporate governance, Japanese business law and law and economic development. He has also launched and oversees projects relating to sustainable entrepreneurship and the civil and human rights of older persons. He received his A.B., M.B.A., and J.D. from the University of California at Berkeley, a D.B.A. from Golden Gate University, and a Ph. D. from the University of Cambridge. For more information about Alan and his activities, please contact him directly at [alanguutterman@gmail.com](mailto:alanguutterman@gmail.com), follow him on [LinkedIn](#), subscribe to his [newsletter](#) and visit his website at [alanguutterman.com](http://alanguutterman.com). Many of Alan's research papers and other publications are also available through [SSRN](#) and [Google Scholar](#).

Alan launched and leads the [Older Persons' Rights Project](#), which is a California nonprofit public benefit corporation with tax exempt status under section 501(c)(3) of the Internal Revenue Code dedicated to advancing awareness of the challenges and opportunities associated with increased longevity; combatting and eliminating prejudice against older persons and age discrimination in all its forms; defending the human and civil rights of older persons secured by law, with particular attention to the rights of members of vulnerable groups; and promoting and advancing the interests of older persons in society as a whole through education and efforts to enhance intergenerational solidarity. The Project engages in high-quality, independent research with the goal of providing innovative, practical recommendations for policymakers, businesses and civil society on addressing ageism and improving the lives of older persons.

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