



VAN FORUM NOTES

Tools for Fighting Ageism: Minnesota's Human Rights Act

June 13, 2006

Ramsey County Public Library, Roseville

“Stand before the people you fear and speak your mind -- even if your voice shakes.”

-Maggie Kuhn, Founder of the Gray Panthers (1905-1995)

VAN Leadership Group member Harriet Mednick introduced the forum on Age & Disability Discrimination and the speaker, Gary Gorman (gary.gorman@state.mn.us) from the Minnesota Department of Human Rights.

Harriet stated that one of VAN's core tenets is that ageism is a pervasive form of bigotry and must be challenged. One of the ways to challenge ageism is through education and learning about tools.

Harriet began by asking participants to explain a time they felt they experienced age discrimination.

Participants answered with the following examples:

- Working in a coffee shop as a part-time manager was fired due to being “too old”
- Been in the human resource field and seeing very young workers in large companies – issues of evidence of difficulty finding jobs
- Received the comment of “oh your so active, you don't look that old”
- Fortunate to have a daughter-in-law from Ethiopia who treats her as a respected elder
- Looking through the Downtowner guide, under “hospital and medical services” and under it listed three services – one of them the Skyway Senior Center was listed – a stereotypical image of older adults being sick
- Senior Centers when attempting to secure funding must play a “health care card”
- Baby boomer that used to experience discrimination based on her gender, but hasn't experienced anything overt – when retiring she doesn't want to bag groceries, she is a professional – why would society think that she would want to be a part-time greeter
- Professional – when you leave the work they forget about you – had no inclination to work at Wal Mart as a greeter or basic skills jobs

- Mother was a private secretary for a major corporation and was 79 at work until the company bought out. They suggested that there would be change coming and she should leave.
- The millennium Y2K bug programmers were called back to fix the problem – the older men that had long since retired.
- Interest in becoming more aware – as you get older, women suddenly become invisible.
- When is old...old? There are only so many 20s, 30s, and 40s – when does the transition occur.
- US Government considers under 18 and over 65 dependent. In other words we're like babies.
- First part of career I was a medical social worker, I began to feel discrimination in job changes – particularly in relation to technology. The loss of not being listened to.
- The world is in such a rush – sometimes people are a bit slower and people aren't patient. The answer – tell them to "leave earlier."
- I've been treated unfairly in a job because of disproportionate pay compared to the younger people. This was contradictory to the feedback received at work of being a "great worker."
- It is what we perceive what happens that is the reality.
- I discriminate against myself. I retired from the Department of Health at age 71, there were some sentiments that I should leave because I was making so much money.
- Subtlety in the nature of discrimination – shifting of classifications, pay increases, etc. There is an age bias or discrimination but difficult to pinpoint.

In 1973 the Minnesota Department of Human Rights began investigating cases of discrimination. Gary began working for the Department after working for a program for Latino elders that is now run by CLUES.

The Department is a neutral state agency that investigates charges of illegal discrimination, ensures that businesses seeking state contracts are in compliance with equal opportunity requirements, and strives to eliminate discrimination by educating Minnesotans about their rights and responsibilities under the state Human Rights Act.

For the last 27 years Gary has been investigating discrimination complaints around Minnesota. The Minnesota Human Rights Act began in 1968 and enforcement authority occurred in the early 1970s. Prior to that the Department had Advisory Committees to the Governor, without much teeth. Currently there are 44 employees at the Department. In the last 5 years, 1/3 employees have been lost due to state budget and priorities. It has an \$8 million approximate biennial budget.

Discrimination affects all people in one way or another – age, gender, etc.

The Department of Human Rights mission statement is “To make Minnesota discrimination free.” Gary stated that he would not see the mission statement fulfilled within his lifetime.

The Department is interested in informing individuals and organizations about the rights under the MN Human Rights Act as well as investigating. It receives approximately 1,000-1,800 complaints per year. Cases are required to be closed within 1 year. The Department disseminates technical assistance to persons subject to the provisions of the Act – through educational campaigns.

For organizations that will do more than \$100,000 in business or have more than 20 employees with the state there is a Civil Rights compliance. Typically larger corporations utilize human resources or attorneys that guide them through the policies and procedures of the Act.

The Department acts as a protector of individuals’ rights as well as protecting businesses and organizations from unfounded accusations of discriminations. The provide enforcement, compliance and education to Minnesota.

Areas of Protection & Protected Classes

The Minnesota Human Rights Act provides protection within employment, housing, public accommodations, public service, education, credit and business. This protection is allotted to persons based on race, color, creed, religion, national origin, sex, marital status, disability, public assistance, age, sexual orientation, familial status, and local human rights commission activity.

80% of discrimination charges occur within employment. In 1005 the largest number of charges across areas were brought based on disability (329), race (300), sex (294), age (147), national origin (144), sexual orientation (32), religious (27), and marital status (22).

Age discrimination is illegal in employment and education (for individuals over 25). The federal employment law protects individuals over 40 years the state law protects individuals over 18 years. Gary explained that a restaurant owner in Duluth wanted to cater to a college crowd and fired 15 waitresses over the age of 30. A successful lawsuit occurred with a fine and change in hiring practices.

Minnesota has an age discrimination law (Minn. Stat. Section 181.81) that permits mandatory retirement age at 70 or 65 for certain executives or those in a “high policy-making position.”

Age discrimination is very hard to prove in court. The Supreme Court recently cleared up a legal issue that the Department can use the “adverse impact theory” to prove age discrimination. The decision stated that if a company has a policy

that on its face seems neutral, but can be shown to be discriminatory to a particularly group.

Age discrimination occurs by refusing to hire, termination, refusing to provide equal opportunities for training, promotion and pay, and harassment.

Compared to age, disability discrimination is illegal in every area protected by the Act. Employers must make reasonable accommodations if they employ more than 14 full-time employees. There are 11 reasonable accommodations:

- Redesign or adjust the work space
- Offer changes in scheduling
- Provide special equipment
- Provide an interpreter
- Provide company publications in alternative formats
- Provide additional unpaid leave
- Ensure that break rooms are accessible
- Make the job less stressful
- Offer job re-assignment
- Ensure that “perks” are accessible
- Allow a service animal

The Department offers an intake unit that can discuss a case and help determine if there is a warranted case. There is a 3-page questionnaire for the individual to complete. There is no cost to the person reporting the instance. The company completes a report which is shared with the individual reporting the instance. The Department looks at both sides of the issue.

If someone becomes ill the company has to follow the Family Medical Leave Act. If the individual returns and cannot perform the essential function of the job with reasonable accommodations the company has the right to lay off an individual.

Individuals have 1 year from the last instance of discriminatory behavior to file a complaint.

Case Study: Age and Disability

A 56-year-old worker obtains a \$51,500 settlement in a case of alleged age and disability discrimination. This worker was in a company with 40 employees. The manager began to make remarks about age and her diagnosis of low-blood pressure.

Case Study: Age and Sex

She had more responsibility, but less pay, than a male co-worker 25 years younger. But when she complained, she was fired.

Case Study: Age and Disability

Failure to accommodate an older employee recovering from colon cancer leads to a \$35,000 settlement.

Case Study: Ford Motor Company

An employee with Raynaud's disease (sensitivity to cold) obtains a \$45,000 settlement in a case alleging discrimination by Ford Motor Company. The employee wanted a parking space for disabilities next to the executives and supervisors. In addition coworkers opened windows in the winter. Finally, he needed special dispensation to not go outside during fire drills in the winter.

Case Study: Fairview Hospitals

Failure to provide medically qualified interpreters leads to a \$208,000 settlement and a change in policy at Fairview Hospitals. A woman wanted to know about her husband's condition and surgery. The Hospital hired a sign language interpreter that was nursing a newborn baby.

For more information about the Minnesota Department of Human Rights, visit www.humanrights.state.mn.us

The intake unit can be contacted at 651-296-5662, TTY 651-296-1283, toll-free 1-800-657-3704.

Federal employment discrimination can be filed at the Equal Employment Opportunity Commission at 1-800-669-4000.

Participants were invited to the next forum with Marnie Hensel on aging and fearlessness at the Fairview Community Center in Roseville on July 11th.