

Board Of Contributors: Plight Of The Long-Term Unemployed

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By [Andrew L. Rodman](#)

The unemployment rate currently hovers around 6.3 percent. While this is significantly lower than the 10 percent rate hit in late 2009, serious concern (even desperation) lingers among the 3.45 million (nearly 36 percent of those currently unemployed) who have been unemployed for at least 27 weeks.

The reasons underlying the long-term unemployment rate are varied and complex. Some attribute the rate, at least in part, to perceived employer bias against hiring the long-term unemployed. In the eyes of the long-term unemployed, the recession has created a perpetual cycle; they can't get a job because they don't have a job, and they don't have a job because they can't get a job.

The extent to which hiring employers screen out, or give less consideration to, long-term unemployed applicants is hotly contested. Many employers have vigorously denied the practice, yet others have displayed bias publicly in help-wanted ads stating, in essence, "unemployed need not apply."

Possible Rationale

Why would an employer screen out a long-term unemployed applicant? The explanations vary. Some employers question the reasons underlying an applicant's unemployment. Even though many of the long-term unemployed fell victim to corporate downsizing during the recession, if layoff decisions were made based upon job performance, as opposed to purely objective criteria such as seniority, then hiring employers may view that unknown as a hiring risk they simply wish to avoid.

Other employers fear that the long-term unemployed may be more prone to accept the first job opportunity presented, only to "jump ship" shortly thereafter when a better opportunity arises. Given the high cost of recruitment and training, employers may view hiring an employed, or recently unemployed, applicant as a safer, less costly alternative.

Some employers also have expressed concern that certain job skills, particularly highly technical skills, deteriorate over time. While many of those skills may be "refreshed" through on-the-job training, employers may wish to avoid training costs altogether by hiring an employed, or recently unemployed, applicant with "fresh" skills.

Many long-term unemployed are quick to point out that they have not been twiddling their thumbs during their extended period of unemployment. Many have improved upon their qualification—making themselves more valuable to employers—by going back to school, taking on-line classes, attending seminars and reading up on developments in their field. In this regard, hiring employers may be missing-out on hiring opportunities, not otherwise available during periods of lower unemployment, by excluding the unemployed from consideration.

The long-term unemployed seek to focus employers' attention on one thing—job qualifications. Their concern about perceived discrimination has not fallen entirely on deaf ears.

Legislative Developments

Employment status currently is not a protected class under federal civil rights laws, and legislative efforts to prohibit discrimination against the unemployed have not gained much traction at the federal level. Some states and cities, however, including New Jersey, Oregon, New York City, Chicago, the District of Columbia and Madison, Wis., have passed laws protecting the unemployed. Those laws take various forms, with some regulating the content of help-wanted ads, and others prohibiting hiring decisions based on an applicant's status as unemployed.

On April 25, 2014, the Connecticut House of Representatives passed a bill designed to address perceived discrimination against the unemployed. The bill now moves to the Connecticut Senate.

In Florida, legislative efforts failed in 2012 and 2013. The proposed legislation would have prohibited employers from making hiring decisions because of an applicant's status as unemployed and from publishing discriminatory help-wanted ads, absent existence of a bona fide occupational qualification.

Even though employment status is not a protected class under federal or Florida law, some have suggested that an across-the-board policy of excluding the unemployed from consideration may have a disparate impact on protected groups, including racial minorities and those age 40 and older, because of higher unemployment rates for those groups.

Job prospects for the long-term unemployed should improve as the overall unemployment rate falls and the applicant pool shrinks. That, however, may not be a satisfactory answer for those already unemployed for several months. Even if legislation passes, violations (unless overt) may be hard to prove, and it is unclear whether or to what extent any legislation would achieve the universal goal—getting the unemployed back to work.