

(3) A matter published and specifically designated as such in the FEDERAL REGISTER.

(b) An opinion letter issued pursuant to paragraph (a)(1) or (a)(2) of this section, when issued to a specific addressee, has no effect upon circumstances beyond the situation of the specific addressee.

PART 1625—AGE DISCRIMINATION IN EMPLOYMENT ACT

Subpart A—Interpretations

Sec.

- 1625.1 Definitions.
- 1625.2 Discrimination between individuals protected by the Act.
- 1625.3 Employment agency.
- 1625.4 Help wanted notices or advertisements.
- 1625.5 Employment applications.
- 1625.6 Bona fide occupational qualifications.
- 1625.7 Differentiations based on reasonable factors other than age.
- 1625.8 Bona fide seniority systems.
- 1625.9 Prohibition of involuntary retirement.
- 1625.10 Costs and benefits under employee benefit plans.
- 1625.11 Exemption for employees serving under a contract of unlimited tenure.
- 1625.12 Exemption for bona fide executive or high policymaking employees.

Subpart B—Substantive Regulations

- 1625.21 Apprenticeship programs.
- 1625.22 Waivers of rights and claims under the ADEA.
- 1625.23 Waivers of rights and claims: Tender back of consideration.

AUTHORITY: 81 Stat. 602; 29 U.S.C. 621, 5 U.S.C. 301, Secretary's Order No. 10-68; Secretary's Order No. 11-68; sec. 12, 29 U.S.C. 631, Pub. L. 99-592, 100 Stat. 3342; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

SOURCE: 46 FR 47726, Sept. 29, 1981, unless otherwise noted.

Subpart A—Interpretations

§ 1625.1 Definitions.

The Equal Employment Opportunity Commission is hereinafter referred to as the *Commission*. The terms *person*, *employer*, *employment agency*, *labor organization*, and *employee* shall have the meanings set forth in section 11 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et*

seq., hereinafter referred to as the *Act*. References to *employers* in this part state principles that are applicable not only to employers but also to labor organizations and to employment agencies.

§ 1625.2 Discrimination between individuals protected by the Act.

(a) It is unlawful in situations where this Act applies, for an employer to discriminate in hiring or in any other way by giving preference because of age between individuals 40 and over. Thus, if two people apply for the same position, and one is 42 and the other 52, the employer may not lawfully turn down either one on the basis of age, but must make such decision on the basis of some other factor.

(b) The extension of additional benefits, such as increased severance pay, to older employees within the protected group may be lawful if an employer has a reasonable basis to conclude that those benefits will counteract problems related to age discrimination. The extension of those additional benefits may not be used as a means to accomplish practices otherwise prohibited by the Act.

[46 FR 47726, Sept. 29, 1981, as amended at 53 FR 5972, Feb. 29, 1988]

§ 1625.3 Employment agency.

(a) As long as an employment agency regularly procures employees for at least one covered employer, it qualifies under section 11(c) of the Act as an employment agency with respect to all of its activities whether or not such activities are for employers covered by the act.

(b) The prohibitions of section 4(b) of the Act apply not only to the referral activities of a covered employment agency but also to the agency's own employment practices, regardless of the number of employees the agency may have.

§ 1625.4 Help wanted notices or advertisements.

(a) When help wanted notices or advertisements contain terms and phrases such as *age 25 to 35*, *young*, *college student*, *recent college graduate*, *boy*, *girl*, or others of a similar nature, such