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What do I need to know about...

Age Discrimination

The Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age.

Under the ADEA it is ***unlawful*** to discriminate against any individual age 40 or older because of his/her age with respect to any term, condition, or privilege of employment, including but not limited to, recruitment, hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. The ADEA permits federal agencies to favor older workers based on age, even when doing so adversely affects a younger worker who is 40 years of age or older.

Important ADEA principles include:

- **Employment Notices and Advertisements:** It is ***generally unlawful*** for employment notices or advertisements to include age preferences, limitations, or specifications.
 - Terms that suggest agencies are seeking applicants who are “age 25 to 35” or “recent college graduates,” for example, ***violate*** the ADEA (unless a statutory exemption, e.g. “BFOQ” (see below) applies).
 - However, notices or advertisements ***may*** express a preference for older individuals with terms that seek “over age 50” or “retirees.”
- **Bona Fide Occupational Qualifications (“BFOQ”):** Under the ADEA, it is unlawful for an agency to discriminate on the basis of age unless the agency can establish that the age limitation is a bona fide occupational qualification necessary to the performance of the duties of the position.
- **Retirement:** An agency does not violate the ADEA if it takes an employment action based on an employee’s retirement status or eligibility, so long as the retirement status or eligibility is a factor other than age upon which the employment action is based. For instance, an agency does not violate the statute if it takes an employment action based on an employee’s eligibility for a particular retirement plan.
- **Harassment:** The ADEA prohibits an agency from harassing a person because he/she is age 40 or older. Harassment can include, for example, offensive remarks about a person’s age. Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim’s supervisor, a supervisor in another area, a co-worker, or someone who is not an agency employee, such as a contractor.
- **Retaliation:** The ADEA prohibits retaliation against an individual for opposing an employment practice that is discriminatory under the ADEA or participating in an employment discrimination proceeding, including filing a charge of employment discrimination, cooperating with an internal investigation of alleged discriminatory practices, or serving as a witness in an EEO investigation or litigation.

For More Information

Any questions regarding the ADEA's coverage or its application to any specific fact situation should be addressed to the Department of Labor's Civil Rights Center. If at any time you think that you have been subjected to age discrimination, contact the Civil Rights Center at 202-693-6500 within 45 days of the alleged discriminatory event in order to preserve your right to file an EEO complaint.