



FACTS 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. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment -- including, but not limited to, hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA.

The ADEA applies to employers with 20 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

APPRENTICESHIP PROGRAMS

It is generally unlawful for apprenticeship programs, including joint labor-management apprenticeship programs, to discriminate on the basis of an individual's age. Age limitations in apprenticeship programs are valid only if they fall within certain specific exceptions under the ADEA or if the EEOC grants a specific exemption.

JOB NOTICES AND ADVERTISEMENTS

The ADEA makes it unlawful to include age preferences, limitations, or specifications in job notices or advertisements. As a narrow exception to that general rule, a job notice or advertisement may specify an age limit in the rare circumstances where age is shown to be a "bona fide occupational qualification" (BFOQ) reasonably necessary to the essence of the business.

PRE-EMPLOYMENT INQUIRIES

The ADEA does not specifically prohibit an employer from asking an applicant's age or date of birth. However, because such inquiries may deter older workers from applying for employment or may otherwise indicate possible intent to discriminate based on age, requests for age information will be closely scrutinized to make sure that the inquiry was made for a lawful purpose, rather than for a purpose prohibited by the ADEA.

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BENEFITS

The Older Workers Benefit Protection Act of 1990 (OWBPA) amended the ADEA to specifically prohibit employers from denying benefits to older employees. An employer may reduce benefits based on age only if the cost of providing the reduced benefits to older workers is the same as the cost of providing benefits to younger workers.

WAIVERS OF ADEA RIGHTS

At an employer's request, an individual may agree to waive his/her rights or claims under the ADEA. However, the ADEA, as amended by OWBPA, sets out specific minimum standards that must be met in order for a waiver to be considered knowing and voluntary and, therefore, valid. Among other requirements, a valid ADEA waiver: (1) must be in writing and be understandable; (2) must specifically refer to ADEA rights or claims; (3) may not waive rights or claims that may arise in the future; (4) must be in exchange for valuable consideration; (5) must advise the individual in writing to consult an attorney before signing the waiver; and (6) must provide the individual at least 21 days to consider the agreement and at least 7 days to revoke the agreement after signing it. In addition, if an employer requests an ADEA waiver in connection with an exit incentive program or other employment termination program, the minimum requirements for a valid waiver are more extensive.

FILING A CHARGE

Age discrimination charges may be filed at any U.S. Equal Employment Opportunity Commission (EEOC) field office. Field offices are located in 50 cities throughout the U.S. and are listed in most telephone directories under "U.S. Government." You may also call toll free 1-800-669-4000 or 1-800-669-6820 (TDD) for the appropriate EEOC field office for your geographic area. Information on all EEOC-enforced laws may be obtained by calling toll free 1-800-669-EEOC or 1-800-800-3302 (TDD).

The time limitation for filing a charge with the EEOC is 180 days from the date of the alleged discrimination, or 300 days in states with designated Fair Employment Practices Agencies. If you have been discriminated against because of age, you may be entitled to a remedy, including, but not limited to, hiring, promotion, reinstatement, back pay, liquidated damages (i.e., an amount equal to any monetary damages you are awarded), and attorney's fees.

This fact sheet is available in alternative formats, upon request.

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