

Equal Employment Opportunity Comm.

§ 1625.2

In any action or proceeding based on any act or omission on or after the date of the enactment of this Act, no employer shall be subject to any liability or punishment * * * if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval or interpretation * * * or any administrative practice or enforcement policy of [the Commission].

The Commission has determined that only the following documents may be relied upon by any employer as a “ruling, approval or interpretation” or as “evidence of any administrative practice or enforcement policy” of the Commission within the meaning of the statutory provisions quoted above.

(1) A written document, entitled “opinion letter,” signed by the Legal Counsel on behalf of and as approved by the Commission;

(2) A written document issued in the conduct of litigation, entitled “opinion letter,” signed by the General Counsel on behalf of and as approved by the Commission;

(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 prohibited 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.

Subpart C—Administrative Exemptions

1625.30 Administrative exemptions; procedures.

1625.31 Special employment programs.

1625.32 Coordination of retiree health benefits with Medicare and State health benefits.

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. 9, 81 Stat. 605; 29 U.S.C. 628; 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 prohibited by the Act.

It is unlawful for an employer to discriminate against an individual in any aspect of employment because that individual is 40 years old or older, unless one of the statutory exceptions applies. Favoring an older individual over a younger individual because of age is not unlawful discrimination under the ADEA, even if the younger individual is at least 40 years old. However, the ADEA does not require employers to prefer older individuals and does not affect applicable state, municipal, or local laws that prohibit such preferences.

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