

# South Carolina Human Affairs Commission

## Technical Services and Training Division



# Prevention Corner



*An ounce of Prevention is Worth a Pound of Cure.*

~Benjamin Franklin

**August 2023**

South Carolina  
Human Affairs  
Commission  
1026 Sumter St.,  
Suite 101  
Columbia, SC 29201

(803) 737-7800  
1-800-521-0725  
<https://schac.sc.gov/>

The South Carolina Human Affairs Commission strives to alleviate problems of discrimination through the enforcement of the SC Human Affairs Law (including the SC Pregnancy Accommodations Act and the SC Lactation Support Act.), the SC Fair Housing Law, the SC Equal Enjoyment and Privileges to Public Accommodations Law

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## Age Discrimination in the Workplace

Age discrimination involves treating an applicant or employee less favorably because of his or her age. The Age Discrimination in Employment Act of 1967 (ADEA) protects certain applicants and employees 40 years of age and older from discrimination on the basis of age in hiring, promotion, discharge, compensation, or terms, conditions, or privileges of employment.

### Age Discrimination and Harassment

It is unlawful to harass a person because of his or her age. Age harassment involves unwelcome and offensive conduct in the workplace that is based on a person's age (age 40 or older).

#### Age harassment can include:

- **Offensive or derogatory remarks about a person's age**
- **Offensive cartoons, drawing, symbols, or gestures, and**
- **Other verbal and physical conduct based on an individual's age.**

Although, the law does not prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, however 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 a supervisor, a co-worker, or someone who does not work for the employer, such as a client or customer.



frequently  
asked  
QUESTIONS

### Can employers assign work based on employees' ages?

**No.** Employers may not assign work based on employees' ages, even if the employer believes the assignments will benefit the workers.

**Example:** A retail store manager cannot assign an older employee to work with only senior citizens shoppers.

Source: [Age Discrimination | U.S. Department of Labor \(dol.gov\)](#); [Age Discrimination | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

### How can I schedule training?

(803) 737-7800 or (800) 521-0725, Relay 711

email: [training@schac.sc.gov](mailto:training@schac.sc.gov)

## 2 THINGS

WE'RE  
TALKING  
ABOUT

# HOT TOPICS

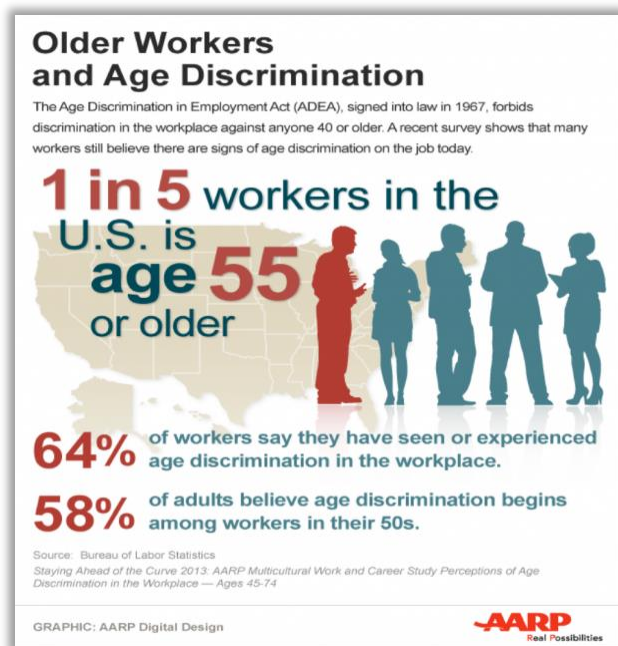
## 1. Myths & Facts

**Myth:** My employer can discipline me for reporting what I think is age discrimination.

**Fact:** **Not true.** It is unlawful for your employer to punish you, treat you differently, or harass you because you report discrimination to someone at your place of employment, to S.C. Human Affairs Commission, or to U.S. EEOC.

This is true even if it turns out that the conduct you complained about is not found to be discrimination. This is the right to be protected from retaliation.

Source: [10 Facts About Age Discrimination in the Workplace \(aarp.org\)](https://aarp.org/10-facts-about-age-discrimination-in-the-workplace); [Age Discrimination FAQs | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://eeoc.gov/age-discrimination-faqs)



## What Does an Age Discrimination Case Look Like?

According to an AARP Foundation Lawyer, one effective way to win an age-based harassment case at the federal level is to prove that the employer intentionally created a work environment in which the harassment was so severe, hostile, and pervasive it would cause a reasonable person to quit.

*An example of that is a case filed with the assistance of [AARP Foundation attorneys against Ohio State University](#). Two instructors, now 64 and 68, in the College of Education and Human Ecology, alleged “an ongoing and unchecked pattern of harassing conduct” by their supervisor, which included calling older workers “millstones” and “deadwood.”*

*That created “working conditions so intolerable that a reasonable employee in either of their circumstances would have been compelled to resign,” the women said in an EEOC complaint. Eventually, the women’s jobs were eliminated, and they were forced to retire.*

The EEOC found the women had faced “intentional age discrimination” in the workplace. Facing a potentially embarrassing legal battle, the university settled with the women for \$765,000 in 2018, gave them their jobs back and committed to conduct training sessions to prevent further bias.

Source: [What is Age Discrimination and What Does it Sound Like? \(aarp.org\)](https://aarp.org/what-is-age-discrimination-and-what-does-it-sound-like)

## 2. Americans with Disabilities Act-33<sup>rd</sup> Anniversary

### #ADA33

Last month we celebrated the 33<sup>rd</sup> anniversary of the Americans with Disabilities Act (ADA). This historic civil rights law which protects the rights of people with disabilities, was signed into law on July 26, 1990.



The [Americans with Disabilities Act \(ADA\)](#) was signed into law on July 26, 1990 by President George H.W. Bush. Throughout the year and on the ADA Anniversary (July 26), the ADA National Network recognizes this landmark event and the important work to promote equal opportunity for people with disabilities.

Source: [ADA Anniversary Tool Kit](#); [ADA Anniversary](#) | [ADA National Network \(adata.org\)](#)



**Answers to your questions about Pregnancy Discrimination and Lactation Support Laws.**

### **Can my employer require me to provide a doctor's note before giving me maternity leave?**

Employers may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work.

However, if your employer requires other employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, your employer may require employees affected by pregnancy-related conditions to provide a similar note.

Source: [Pregnancy Discrimination - FAQs](#) | [U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)



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## SCHAC CAUSE DETERMINATION

In March 2023, an employer was found to have engaged in unlawful retaliation, in violation of the South Carolina Human Affairs Law, when the employer disciplined or discharged three individuals in direct response to their complaints of race, sex (including gender identity), and disability discrimination.

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### **August 31 \* National South Carolina Day\***

National South Carolina Day is celebrated on August 31 every year to honor the history, people, and culture of this great state.

**For more information:** [NATIONAL SOUTH CAROLINA DAY - August 31, 2023 - National Today](#)

Source: [NATIONAL SOUTH CAROLINA DAY - August 31, 2023 - National Today](#)

**\*\*Please Note: This newsletter is not intended to be used as legal advice**

## PREVENTION CORNER

According to the Society for Human Resource Management (SHRM), today's older workers are better educated and living longer than any previous generation. They also want to remain in the workforce longer, but discrimination and outdated assumptions are creating issues in the workplace for many experienced employees, and overt acts of ageism are expected to get worse as the numbers of older workers grow.

### Tips for Avoiding Age Discrimination

- **Examine your recruitment practices.** Train recruiters and interviewers to avoid ageism assumptions.
- **Assess aspects of your organization's culture, practices or policies** that may reveal outdated assumptions about older workers.
- **Watch for, and eliminate, comments** that might be viewed as age-related in all performance documentation.
- **Foster a multigenerational culture** that recognizes ability regardless of age and rejects age stereotypes.

Source: [How to Avoid Ageism \(shrm.org\)](#); [Five Tips for Avoiding Age Discrimination \(shrm.org\)](#)

**EEO laws are designed to protect the rights of ALL individuals.**

**If you feel like you have experienced discrimination,  
contact us for help.**

**South Carolina Human Affairs Commission  
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<https://schac.sc.gov/>

**How can I schedule training?**

**email: [training@schac.sc.gov](mailto:training@schac.sc.gov)**

**The mission of the South Carolina Human Affairs Commission is to Prevent and Eliminate Unlawful Discrimination in Employment, Housing, and Public Accommodations.**