



# AGE DISCRIMINATION



# Workplace Age Discrimination Still Flourishes in America

About 35 percent of the U.S. population is now age 50 or older. Yet, in 2018, the Equal Employment Opportunity Commission — the nation’s workforce watchdog — issued a damning special report on age discrimination against older Americans. It concluded that even though 50 years had passed since Congress outlawed the practice, “age discrimination remains a significant and costly problem for workers, their families and our economy.”

Victoria Lipnic, the EEOC’s acting chair at the time, went so far as to compare it to harassment: “Everyone knows it happens every day to workers in all kinds of jobs, but few speak up. It’s an open secret.”

That same year, a survey found that:

- Nearly 1 in 4 workers age 45 and older have been subjected to negative comments about their age from supervisors or coworkers.
- About 3 in 5 older workers have seen or experienced age discrimination in the workplace.
- 76 percent of these older workers see age discrimination as a hurdle to finding a new job; another report found that more than half of these older workers are prematurely pushed out of longtime jobs and 90 percent of them never earn as much again.

Diane Huth’s story is not unusual. “I am 69 years old, and that means I am unemployable,” says Huth, who lives in San Antonio. “I worked in corporate America for more than 40 years with big-name companies in branding. But I cannot get a job, the same job I rocked 15 years ago. I cannot even get an interview for that job because of all the screening mechanisms. I’m just too old; nobody takes me seriously for a job at my age, even in things I had excelled at.”

That rampant discrimination has a huge ripple effect:

- 29 percent of U.S. households headed by someone age 55 or older have no retirement savings or pension, meaning they’ll have to continue working or rely on Social Security to survive. But if the only job that remains open to them is unskilled and minimum wage, what does their future hold?
- Older people who don’t feel useful are three times more likely to develop a disability and four times more likely to die prematurely, compared with counterparts who do feel useful, according to a 2007 study published in

the *Journals of Gerontology*. If 30-plus years as a professional are suddenly thoroughly discounted by the business world, the effect on your health and longevity is undeniable.

Paradoxically, what most companies do not seem to understand is that older workers possess a depth of knowledge and experience that's worth paying for, is not easily replaced and can be tapped in many different ways.

"People walk out of companies now with an enormous amount of intellectual property in their heads," says Paul Rupert, the founder and CEO of Respectful Exits, a nonprofit consulting firm that's raising corporate awareness about age discrimination. "They know things that are essential to the company's success, and if that knowledge is not captured and transmitted to the next generation that company is losing a tremendous chunk of capital and it'll eventually pay a price."

How did we get to this point? And how can we combat such widespread age discrimination?

To answer these questions, the *AARP Bulletin* asked me to independently examine ageism in the workplace to determine why it is so prevalent and what can be done about it, to provide both a snapshot and a primer on the state of age discrimination in America. Here's what I've learned

## FIGHTING DISCRIMINATION:

If you haven't felt the pinch of ageism yet, trust us, you will. If you apply for a job online, there's a good chance that a screening algorithm will automatically disqualify you because of your age. If you're an older employee, it's likely you'll bear your share of age-related comments and jokes. And if you're gunning for a promotion or heading into a job interview, you may feel compelled to touch up the gray, dress a bit younger and act like technology is your best friend.

That's because ageism in the workplace occurs every day across America, and it is tolerated or — even worse — unrecognized for what it truly is: discrimination, plain and simple.

"Age discrimination is so pervasive that people don't even recognize its illegal," asserts Kristin Alden, an attorney specializing in employee rights at the Alden Law Group in Washington, D.C.

What immediately became apparent in my reporting is that, like other biases and discriminatory practices, ageism takes many forms. In the workplace, we found illegal age discrimination in three main areas:

- Recruitment and hiring, when younger applicants are shown favor simply because of their age.
- On-the-job bias, when older workers receive fewer training opportunities, promotions and rewards, or are harassed.
- Termination, when a company “freshens” its workforce or trims budget by targeting senior employees for layoffs or encouraging them to retire.

Paul Rupert, of Respectful Exits, suggests — persuasively — that the problem emanates from our free-enterprise roots. The predominant business model in this country is still an industrial one where companies view employees as “human capital,” he says. “It’s a sad phrase, but companies view their workforce the same way they view their capital equipment. You buy it, you assume it has a certain shelf life, and then you get rid of it and replace it with a new model.”

Stories like these are typical:

“I became aware of ageism when it happened to a couple of people I cared about,” says Patti Temple Rocks, who has spent 38 years in communications and is the author of *I’m not done: It’s Time to Talk about Ageism in the Workplace*. “My first reaction was, *I’m not going to let this happen to me. I’m going to be completely in touch with when I’m no longer relevant*. I read everything I could about reinventing myself. But when it did happen, I realized everything I had been thinking was wrong. I was still on my game, but I was being moved into a nonessential role to make room for someone younger. I wasn’t ready for my second act because I was still well into my first.”

“I learned to structure my résumé in ways so it’s not obvious how old I am,” says an engineering executive in his late 50s, who asked to remain anonymous. “I would get calls, the phone screens would go really well, but then when I went for interviews — sometimes flown in by corporate jet — I’d never hear back or be told someone else got the job. Eventually, I realized what they were thinking when I walked in: *This guy isn’t a spring chicken*.”

These tales are as easy to find as, well, spring chickens. Between 1997 and 2018, approximately 423,000 U.S. workers filed age discrimination claims with the EEOC. That’s roughly 19,200 per year and 22 percent of all workplace discrimination claims. But here’s something important to keep in mind: An AARP survey found that only 3 percent of older employees have ever made a formal complaint of age discrimination to a government agency or someone in the workplace, which means there are probably hundreds of thousands more who simply accept the job rejections, shrug off the denials for promotion, withstand the workplace harassment or take the offer of early retirement.

The EEOC says there is “vast underreporting of the problem,” but there is an equally big issue: the EEOC itself. Understaffed and charged with battling discrimination of

all types, the agency has simply been unable to take up its cudgel to fight hard for older workers. More on that soon, but first some background.

## WORKPLACE perspective on age bias

Frank Cania, president of HR Compliance Experts, believes that ageism is often considered by human resource departments as being on par with other types of workplace discrimination but that HR personnel are not as aware of it as they should be. Although a number of states have recently passed laws requiring employers to provide annual sexual harassment training, he says there's no similar legislation or mandated programs that exclusively target ageism. "The average HR person would say, 'Oh, yeah, that's definitely a problem; it needs to be addressed,'" he explains. "But then they may place a job ad using terms like 'fast-paced environment, energetic, technology ninja' or 'We work hard and party harder.' "

Unsurprisingly, tech companies are some of the biggest age discriminators. With Facebook CEO Mark Zuckerberg famously declaring in 2007 that "young people are just smarter," Silicon Valley has become a poster child for the youth work culture. According to a 2016 report by Statista, the average median employee age at 17 top tech companies was 32, compared with 42 for the total U.S. workforce. That doesn't appear to be a coincidence. In 2019, Google agreed to pay \$11 million to settle the claims of more than 200 job applicants who said they were discriminated against because of their age.

Older tech companies are not immune to the problem. A 2018 ProPublica investigation alleges that IBM deliberately engineered the dismissal of an estimated 20,000 employees over age 40 in a five-year period. "In making these cuts, IBM has flouted or outflanked U.S. laws and regulations intended to protect later-career workers from age discrimination," the article asserts.

The EEOC is looking into these charges, and a class action suit has been filed. But whether the company will ever be held accountable remains to be seen. One workplace consultant who requested anonymity told the *AARP Bulletin* that IBM's strategy was "brilliant," explaining that its supervisors and attorneys were exquisitely aware of how difficult it is to successfully prosecute age discrimination, and they took full advantage of that. Last year, in response to the allegations in that suit and several individual suits, IBM told Bloomberg: "We have reinvented IBM in the past five years to target higher value opportunities for our clients. The company hires 50,000 employees each year."

## Ageist Phrases to Avoid

“Wow, you don’t look 65! You look fabulous!” Did you really mean, “You look great for an old person!”? If you want to flatter someone, consider an alternative approach by being specific. Instead say “Your smile lights up the room!”, “You have a great sense of style!”, or “You show so much compassion in your face!”

“60 is the new 50.” We’re not sure what that even means, but we hear it all the time. Contrary to what you may think, many 60-year-olds are following their passions and leading engaged, interesting lives, like friends in their 20s, 30s, 40s, and 50s. An age is what it is, but it's how you live that age that matters most. Avoid stereotypes about any specific decade of life, because often they simply are not true.

Using the terms “they” and “them” when talking about people of another generation. Rather, start using “us” and “we.” “Othering” any portion of society is not helpful or productive. As aging advocate Ashton Applewhite stated “They are us: our parents, our neighbors, our friends, and it is grotesque to suggest that our interests are inherently opposed... All of us were young, and everyone is old or future old. It makes far more sense to bridge this contrived divide than to succumb to prejudice against our own future selves.”

Using “Young man,” “Girl,” “Kiddo,” to address someone other than an adolescent. It can be condescending, insulting, or imply a sense that ‘younger is better,’ instead of focusing on what we truly value and like about others.

“Entitled millennials...” While Second Acts’ aim is to raise up the talents, abilities and value of older adults, we must also be careful not to use stereotypes against other generations. Our organizations, workforces, and communities are strongest when all people are valued, included, and have the opportunity to contribute without stereotypes or bias.

“She’s young at heart” or “I’ll always identify better with younger people.” Again, while probably intended to convey a positive connotation or framed as a compliment to another, these statements ring undertones of ‘young is good’, ‘older is bad.’ We challenge you to think through what it is you really mean. Are you referencing a high level of energy? Agility? Sense of humor or playfulness? GREAT- then say those words instead of generalizing perceived characteristics of any generation.

# 7 SIGNS YOU'VE BEEN TARGETED BASED ON AGE

- 1. Coded Comments:** Was that remark about how you can't teach old dogs today's technology an innocent jab? Maybe, but when company leaders refer to younger workers as "energetic" "fresh faces" and "new blood". While older employees are "set in their ways", it can be an indication of a discriminatory mind-set, says Kellee Boulais Kruse, an executive at The Employment Law Group in Washington D.C. who investigates discriminatory practices in the work place.
- 2. Different Dealings:** Are younger workers getting all the opportunities for training, promotions and juicy projects? If older workers are raising their hands but always being passed over, it could be a sign of ageism. The same goes for buyouts that are offered only to older workers.
- 3. Wounding words:** Does that younger boss enjoy the giggles of coworkers when he calls you "Granddad"? Abusive remarks are enough to create a hostile work environment. A slew of age remarks can make a worker feel uncomfortable. "But it has to be more severe and pervasive than a one-off comment", Kruse says. Documenting age-related abusive remarks is one way to show a pattern that could be seen as a hostile environment.
- 4. Ageist assumptions:** Actions that suggest that older workers don't understand technology and social media or can't work as hard can indicate a discrimination attitude. OR even worst, hearing wording like "He/she just can't seem to understand anything".
- 5. Social segregation:** Time with the bosses outside the office can lead to better opportunities. If everyone but the older workers is invited to be part of the fantasy football league or happy hour, a culture of ageism may be to blame.
- 6. Lopsided layoffs:** If companies/institutions lay off just older workers or eliminate jobs of older workers and then have younger workers pick up the slack maybe under a different job title, it smells fishy. If a worker files an EEOC complaint, the government may ask the company or institution to provide the ages and titles of everyone (laid off or not) in the area where the cutbacks are made. That could justify a discrimination lawsuit.
- 7. Perplexing Pretexts:** Companies and institutions that discriminate come up with creative excuses. But if they demote someone older for poor performance even though the person's ratings have been great. It's a sign of discrimination, says Eric Bachman, a Washington D.C. Area specialist in employment discrimination and principle at Zuckerman Law Office.

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Here are some examples of ageist speech and behavior that are so common — and in many cases, well-meaning — that you might not even think much about them, according to Sally Brown of the Vital Aging Network:

- Birthday parties featuring black balloons and crepe paper, cards that make fun of getting old, joke gifts about aging.
- "Anti-aging" products and services.
- Praising older people by comparing them to younger ones: "You look good for [your age]," "You're young at heart" or "Inside, I feel 30 years younger."
- "You're still... [dancing, driving, going to the gym, wearing a particular style]" or "You're too old to do those things."
- Describing minor forgetfulness as a "senior moment."
- Doctors, waiters and others directing comments about an older person at a younger companion or child of the older person.
- Health care and social-service providers who patronize older people, or who undertreat, overtreat or overmedicate them.
- Patronizing language (sweetie, dear, honey, he's so sweet, isn't she cute). Thinking older people doing things associated with younger people (mild cursing, having or referring to sex) is adorable or surprising.
- Name-calling: geezer, gramps, old fart, dirty old man, little old lady, old bag, biddy, old fogey.
- Lying about your age for fear of negative perceptions, or staying "39" year after year.
- Assuming that young people are computer geniuses and older people are technologically inept.
- Discussions of the "silver tsunami" that blame older people for economic and social challenges.