

How to Fight Age Discrimination

by Kimberly Palmer, [AARP](#), March 31, 2017

Learn how to fight age discrimination and win.

En español | Age discrimination, just like discrimination based on race or gender, is illegal. The Age Discrimination in Employment Act of 1967 (ADEA), which celebrates its 50th anniversary this year, prohibits discriminating against workers age 40 and over during all stages of employment, including **hiring** and layoffs. Despite that law, however, it can be difficult to win age discrimination cases in court. Here are five things you should know.

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1. Age discrimination can be hard to prove, so be sure to keep careful notes of any evidence.

According to a 2009 U.S. Supreme Court decision, plaintiffs must meet a higher burden of proof for age discrimination than for other types of discrimination. The clearest indicator of intentional discrimination is when an employee demonstrates that an employer is acting because of a belief that a worker has diminished capacity because of the worker's age, says Patricia Barnes, an employment discrimination expert and author of *Overcoming Age Discrimination in Employment*.

Another strong sign is if a supervisor makes comments about age or sends younger workers to a training course but not older workers, Barnes says. "I always advise keeping some kind of notebook about each incident, who was there and how it made you feel," she suggests. Then, it's easier to demonstrate a pattern in court.

2. Pull in professionals.

Human resources officers are trained to recognize age discrimination, but it's also important to remember that they work for your employer, not for you. You can lodge a complaint with your HR department, which might then investigate or talk to your supervisor. You might also want to consult with a lawyer to see if you have a case to pursue in court. In addition, you can contact your local Equal Employment Opportunity

Commission (EEOC) office to discuss how to file a charge and for help resolving the charge with your employer.

3. Winning an age discrimination case might be hard, but it's not impossible.

One of the largest age-discrimination cases in recent history involved a then-64-year-old Staples employee in Los Angeles who was called an "old goat" in staff meetings and eventually was fired. A jury awarded the man \$26 million. A reduced payment of \$16 million was upheld on an appeal. Currently, [AARP Foundation](#) is supporting multiple age-discrimination cases, including ones against Spirit AeroSystems and PwC, aka PricewaterhouseCoopers, both of which are pending. "We are hopeful that our participation and success in these cases will send a message to employers that age discrimination is unacceptable and will not go unchallenged," says Laurie McCann, senior attorney with AARP Foundation Litigation.

4. There's power in numbers.

If you lose your job as a result of a group termination and you suspect age discrimination, think about working with your affected coworkers to pursue legal action. It can strengthen your negotiating position and also help reduce costs.

5. Staying abreast of technology can help protect you.

[Savvy Senior](#) syndicated columnist Jim Miller says employees might be able to avoid age discrimination in the first place by making efforts to stay up to date on technology. "A lot of people get discriminated against because the world has passed them by from a technology standpoint," he says. [Taking online courses](#) or other forms of training can help show that you can still excel at work, at any age.