

University of Central Florida
Office of Institutional Equity
Discrimination: Descriptions, Prevention
DISCRIMINATION BASED ON AGE

The University of Central Florida promotes access to its educational programs and activities, including employment, consistent with federal and state statutes as well as UCF Regulation 3.001, *Non-Discrimination; Affirmative Action*. The University takes prompt action to investigate complaints of discrimination based on age, providing corrective actions when appropriate.

Age discrimination involves treating an individual less favorably because of age. Under federal law, the protected class for age complaints begins at age 40. Under Florida law and in the University's regulation, there is no minimum age.

Just as with other protected classes, complaints can be filed even though the alleged discriminating official is also older than 40. "Sharing the same protected class" is not a valid defense to the conduct.

That conduct includes decisions to hire, terminate, set a particular salary, assign certain tasks, promote, lay off, train, or any other term or condition of employment. Common examples of age discrimination include:

- favoring an applicant younger than 40 over an applicant age 40 or above, without considering qualifications. Job advertisements recruiting "young/energetic individuals" or "start your career here!" give the impression the employer may not consider individuals older than 40, and such wording may be unlawful.
- assigning the legacy system to employees 40 and older and providing training on the incoming system to those younger than 40, without considering abilities. An employee older than 40 may have recently completed a degree and have the most recently updated skills to tackle the new system.
- selecting individuals over 40 for layoff with no system of applying permissible factors such as their job's value to the employer or their performance record

The best systems for employment decisions consider job-related factors such as qualifications, experience, education, interview success, reference-check results, performance in current and previous positions, potential for success in higher-level or reorganized positions, abilities, and interest. UCF incorporates those factors into employment selection decisions (as an example), using the Faculty Hiring Guide, A&P Hiring Guide, Search and Screen Guidelines, pre- and post-hire monitoring of rationale, and training programs for hiring officials, search committee members, and interviewers.

Age-related harassment is more of a pattern than specific acts of discrimination. It may take the form of "joking around" or "teasing." If it substantially interferes with an employee's performance, however, it is an area for the University to take action.

The following example may contain offensive material because it is provided as an example of a hostile or offensive environment.

If the “jokes” can be stopped by the target early in the pattern because it is a miscommunication about what is funny, the target may be able to tell the individual, “Nicknaming me ‘Grandma Moses’ is getting old. Why don’t we go back to when I was still Monique.” If the pattern stops, there is no basis for a harassment claim.

If the age-related nicknaming continues, and colleagues join in despite requests to stop, and bottles of Geritol are left on the individual’s desk, and her colleagues ask if she needs a walker added to the monthly supply order: the individual is responsible for reporting this pattern of age-related harassment and the University is responsible for addressing it. It is unlawful when it is so severe or persistent or pervasive that it creates a hostile or offensive working environment.

The University’s non-discrimination regulation prohibits acts of retaliation, as well as harassment, within the definition of discrimination. Retaliation consists of an adverse action, taken against an individual who complained or threatened to complain or who served as a witness in a discrimination complaint, based on that individual’s involvement.

For additional questions and resources for filing a report, complaint, or discrimination grievance, utilize the following contact information:

oiie@ucf.edu
12701 Scholarship Drive,
Suite 101
Orlando, FL 32816-0030
(407)823-1336
<http://www.oiie.ucf.edu/>

UCF OIE 6/11, 11/12, 5/17