

This ruling and others indicate that the act does not apply if age is a job-related occupational qualification. Age discrimination does not apply when an individual is disciplined or discharged for good cause, such as poor job performance. But targeting older workers for replacement is illegal.

However, employers that focus on recruiting or providing “preferential treatment” of older workers do not violate the ADEA. The Supreme Court ruled that, although older workers can sue if they are not treated the same as younger workers, the reverse is *not* true. Two hundred General Dynamics employees had sued because they were too young to get benefits offered to co-workers age 50 and over. The workers (who were all in their 40s) argued for reverse discrimination and lost their case.³⁶

Older Workers Benefit Protection Act (OWBPA) This law is an amendment to the ADEA and is aimed at protecting employees when they sign liability waivers for age discrimination in exchange for severance packages. To comply with the act, employees must be given complete accurate information on the available benefits. For example, an early retirement package that includes a waiver stating the employee will not sue for age discrimination if he or she takes the money for early retirement must³⁷:

- Include a written, clearly understood agreement.
- Offer value beyond what the employee will receive without the package.
- Advise the employee to consult an attorney.
- Allow the employee at least 21 days to consider the offer.
- Allow the employee 7 days to revoke the agreement after signing it.

The impact of the OWBPA is becoming more evident. Industries such as manufacturing and others offer early retirement buy-outs to cut their workforces. For instance, Ford and General Motors have offered large buyouts of which thousands of workers have taken advantage.

OTHER EMPLOYMENT DISCRIMINATION LAWS AND REGULATIONS

Several types of employment circumstances have resulted in passage of a variety of anti-discrimination and other laws and regulations. Some of the key ones deal with immigration, religion, military service, and other issues.

Immigration Reform and Control Acts (IRCA)

The United States has always had a significant number of immigrants who come to work in this country. The increasing number of immigrants who have entered illegally has led to extensive political, social, and employment-related debates. The existence of more foreign-born workers means that employers must comply with the provisions of the Immigration Reform and Control Acts (IRCA). Employers are required to obtain and inspect I-9 forms, and verify documents such as birth certificates, passports, visas, and work permits. They can be fined if they knowingly hire illegal aliens.

Visas and Documentation Requirements Various revisions to the IRCA changed some of the restrictions on the entry of immigrants to work in U.S. organizations, particularly organizations with high-technology and other “scarce skill” areas. More immigrants with specific skills have been allowed legal entry, and categories for entry visas were revised.

Visas are granted by U.S. consular officers (there are more than 200 such officers throughout the world). Many different types of visas exist. Among those most commonly encountered by employers are the B1 for business visitors, H-1B for professional or specialized workers, and L-1 for intracompany transfers.

Usually an employer must sponsor the workers. Companies are not supposed to hire employees to displace U.S. workers, and they must file documents with the Labor Department and pay prevailing U.S. wages to the visa holders. Despite these regulations, a number of unions and other entities view such programs as being used to circumvent the limits put on hiring foreign workers to displace U.S. workers. Given the volatile nature of this area, changes in federal, state, and local laws are likely to continue to be discussed, implemented, and reviewed in court decisions.

Religious Discrimination

Title VII of the Civil Rights Act identifies discrimination on the basis of religion as illegal. The increasing religious diversity in the workforce has put greater emphasis on religious considerations in work places. However, religious schools and institutions can use religion as a bona fide occupational qualification for employment practices on a limited scale. Also, the employers must make *reasonable accommodation* efforts regarding an employee's religious beliefs.

A major guide in this area was established by the U.S. Supreme Court in *TWA v. Hardison*. In this case, the Supreme Court ruled that an employer is required to make reasonable accommodation for an employee's religious beliefs. Because TWA had done so, the ruling denied the plaintiff's discrimination charges.³⁸

Since the September 11, 2001, terrorist attacks, increased discrimination complaints have been filed by Muslims because of treatment or insults made by co-workers and managers. In a recent case, Alamo Rent-A-Car refused to allow a female Muslim customer service representative to wear a religious head scarf when assisting customers. Despite her offer to wear a head scarf with an Alamo logo, that offer was refused and she was terminated. A court decision ruled that Alamo had not made reasonable accommodation for the employee.³⁹

Cases also have addressed the issues of beards, mustaches, and hair length and style. African American men, who are more likely than white men to suffer from a skin disease that is worsened by shaving, have filed suits challenging policies prohibiting beards or long sideburns. Generally, courts have ruled for employers in such cases, except where certain religious standards expect men to have beards and facial hair.

An EEOC religious discrimination complaint was filed by a Rastafarian male who was denied a job at UPS as a driver helper because of his beard. UPS disputed his claims and cited company guidelines that prohibit beards and goatees for employees who have public contact. The final decision is in court at present.⁴⁰

Military Status and USERRA

The employment rights of military veterans and reservists have been addressed in several laws. The two most important laws are the Vietnam Era Veterans Readjustment Assistance Act of 1974 and the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994. Under the latter, employees