



All Public Sector Employers Are Now Subject to the Age Discrimination in Employment Act

All local and state governmental entities are “employers” covered under the federal Age Discrimination in Employment Act (“ADEA”), regardless of the number of employees they may have. The ADEA’s jurisdictional threshold of 20 or more employees does not apply to public employers, ruled the Supreme Court in a unanimous decision. The ADEA protects employees over the age of 40 and defines an employer as a person who has twenty or more employees, however, employer “also means” a state, political subdivision, or an agency or instrumentality of the state. 29 U.S.C. § 630(b). This definition has caused confusion in courts interpreting the ADEA’s reach as it applies to smaller state and local governments with less than 20 employees and the high court’s decision finally resolves this circuit split. Public employers with less than 20 employees are now indisputably subject to the ADEA. Due to this ruling it is recommended that smaller sized public employers review and update handbooks, non-discrimination policies, and notices to ensure compliance with this ruling, and consider the ADEA when making employment decisions.



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