



SPECIAL COMMITTEE ON AGING

Chairman Bob Casey

The Protecting Older Workers Against Discrimination Act (POWADA) – S.880

Why do we need POWADA?

In 2009, the Supreme Court ruled in *Gross v. FBL Financial Services* that workers who face age discrimination have to meet a higher burden of proof than workers who face discrimination based on other characteristics like race, sex, national origin or religion. The court ruled that, whereas for decades a worker needed to prove only that discrimination was a factor in an adverse employment decision to make an age discrimination claim, now a worker needs to prove it was the *deciding* factor in that decision. This significantly weakened the protections of the Age Discrimination in Employment Act (ADEA) and sent a clear signal to employers: some age discrimination is perfectly fine.

What would POWADA do?

POWADA would amend the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Rehabilitation Act of 1973 and the retaliation provision in Title VII of the Civil Rights Act of 1964 to level the playing field for older workers. The bill would restore the pre-*Gross* standard, recognizing once again the legitimacy of so-called “mixed-motive” claims in which discrimination is a, if not the deciding, factor. It would also reaffirm that workers may use any type of admissible evidence to prove their claims.

It’s time to level the playing field.

A survey conducted by AARP in 2018 found that more than three in five workers ages 45 and above reported seeing or experiencing age discrimination in the workplace. The survey also found that three quarters of these workers cited age discrimination as a reason for their lack of confidence in being able to find a new job. Age discrimination is a key reason why many older Americans have trouble finding work after a period of unemployment and struggle to return to the workforce. Age discrimination is unacceptable, and victims of age discrimination should have equal access to the courts.

Cosponsors: Senators Grassley, Leahy and Collins

The *Protecting Older Workers Against Discrimination Act* will restore workplace protections for older workers.

Supporting Organizations

AARP, Aging Life Care Association, Alliance for Retired Americans, American Association of People with Disabilities (AAPD), American Association of Service Coordinators, American Association of University Women (AAUW) American Civil Liberties Union (ACLU), American Federation of State, County, and Municipal Employees (AFSCME), American Society on Aging, AMDA - The Society for Post-Acute and Long-Term Care Medicine, Association of Gerontology and Human Development in Historically Black Colleges and Universities, Bazelon Center for Mental Health Law, B'nai B'rith, Consumer Voice, Disability Rights Education & Defense Fund (DREDF), Easterseals, Equal Rights Advocates, International Association for Indigenous Aging, Justice for Migrant Women, Justice in Aging, Leadership Conference on Civil and Human Rights, Leading Age, National Adult Protective Services Association, National Asian Pacific Center on Aging (NAPCA), National Association for Hispanic Elderly, National Association of Area Agencies on Aging (n4a), National Association of Nutrition and Aging Services Programs (NANASP), National Association of Social Workers, National Center and Caucus on Black Aging, National Committee to Preserve Social Security and Medicare, National Council on Aging, National Disability Institute, National Domestic Workers Alliance, National Education Association (NEA), National Employment Law Project, National Employment Lawyers Association, National Hispanic Council on Aging, National Senior Corps Association, NETWORK Lobby for Catholic Social Justice, National Partnership for Women & Families, National Women's Law Center, Paralyzed Veterans of America, Pension Rights Center, PHI (formerly the "Paraprofessional Healthcare Institute"), Social Security Works, The Arc of the United States, The Gerontological Society of America, The Jewish Federations of North America, Women Employed, and Women's Institute for a Secure Retirement (WISER).