

## **3 FAM 1530 NON-DISCRIMINATION ON THE BASIS OF AGE**

*(CT:PER-543; 06-02-2005)  
(Office of Origin: OCR)*

### **3 FAM 1531 POLICY**

*(CT:PER-543; 06-02-2005)  
(State)  
(Foreign Service and Civil Service Employees)*

In accordance with the Age Discrimination in Employment Act of 1967, as amended (ADEA), the Department of State prohibits discrimination in employment on the basis of age, and ensures that all personnel actions affecting employees or applicants for employment are free from discrimination on the basis of age.

### **3 FAM 1532 AUTHORITY**

*(CT:PER-543; 06-02-2005)  
(State)  
(Foreign Service and Civil Service Employees);*

- a. The Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 633a);
- b. The Foreign Service Act of 1980 (22 U.S.C. § 3901, et seq.); and
- c. Equal Employment Opportunity Commission (EEOC) regulations contained in 29 C.F.R. § 1614.201.

### **3 FAM 1533 APPLICABILITY**

*(CT:PER-543; 06-02-2005)  
(State)  
(Foreign Service and Civil Service Employees)*

- a. These regulations apply to all U.S. citizen Foreign Service and Civil

Service employees and employment applicants of the Department of State who at the time of the alleged discriminatory action are at least 40 years of age, not including non-U.S. citizens located outside the territorial boundaries of the United States.

- b. The Age Discrimination in Employment Act of 1967, as amended, and regulations promulgated thereunder, do not affect duly constituted retirement systems, including statutorily established mandatory retirement ages.

### **3 FAM 1534 PROCEDURES AND GUIDELINES GOVERNING ALLEGATIONS OF AGE DISCRIMINATION**

*(CT:PER-543; 06-02-2005)*

*(State)*

*(Foreign Service and Civil Service Employees)*

- a. Regulations governing the processing of discrimination complaints filed on the basis of race, color, national origin, *sex, disability or religion* (see 3 FAH-1 H-1510) also apply to age complaints, with certain exceptions. These differences are as follows:

- (1) Individuals alleging age discrimination by a Department of State employee are not required to pursue a complaint through the Department's Office of Civil Rights (S/OCR). Such an individual may file a civil action directly in an appropriate Federal District Court. However, a complainant must provide the Equal Employment Opportunity Commission with written notice of his/her intention to sue at least 30 days in advance of filing suit in the appropriate Federal District Court. Notice should be addressed and submitted by mail to the:

Equal Employment Opportunity Commission (EEOC)  
P.O. Box 19848  
Washington, DC 20036; or

By personal delivery to:  
EEOC  
Office of Federal Sector Programs  
1801 L Street NW  
Washington DC 20507, or

By facsimile @(202) 663-7022.

This notice must be provided to the EEOC within 180 days of the alleged unlawful act.

- (2) If the individual chooses to file a complaint of age discrimination with the Department in lieu of filing directly with an appropriate Federal District Court, then he/she must:
  - (a) Meet all procedural requirements established by 29 C.F.R. § 1614 in order to have the complaint processed through S/OCR, and
  - (b) Exhaust all administrative remedies before subsequently filing in Federal District Court. Filing of an administrative action satisfies the requirement to provide Notice to the EEOC referenced in 3 FAM 1534(1) above.
  - (c) Administrative remedies for cases that are not "mixed case" complaints (see 3 FAM 1560) regarding what constitutes a "mixed case" complaint) are deemed to be exhausted when the:
    - (1) Department has taken no final action within 180 days of the date of filing the initial complaint so long as complainant has not filed an appeal;
    - (2) Department takes final action pursuant to 29 C.F.R. 1614.107 or 1614.110, so long as complainant has not filed an appeal; or
    - (3) EEOC issues a final decision on an appeal or fails to do so 180 days after the filing of the appeal. (See 29 CFR 1614.201(c).)
- (b) In addition to these procedures, employees are also entitled to use the procedures enumerated in 3 FAM 1525.2-2d, Employee's Rights and Responsibilities

## **3 FAM 1535 THROUGH 1539 UNASSIGNED**