

Opinions

Age discrimination is more common than you think. Why aren't we doing anything about it?

By [Helaine Olen](#)

When you dive into popular literature on retirement, you could be forgiven for thinking there are hordes of Americans in their late 50s or early 60s desperate to leave the paid workforce as soon as they can. Blog posts and academic studies beg people to hold off on collecting Social Security until the age of 70, so they can maximize their benefits. There is Bloomberg Businessweek's article [Not prepared for retirement? Here's a solution. Don't retire](#) and Inc.'s [Want to Retire Early? Here are 3 Reasons You Probably Shouldn't](#). Few listen. The most common age to file [for Social Security](#) is 62.

Why? Well, many of these people are not downscaling their professional lives or exiting the workforce entirely because they want to do so. They are likely victims of age discrimination. That's the searing conclusion that can be drawn from a recently released joint [Urban Institute](#)-ProPublica analysis of data from the Social Security Administration and National Institute on Aging's joint longitudinal [Health and Retirement Study](#). The researchers behind the report found a majority of workers over the age of 50 are likely at some point to be shoved out of their jobs, either via an overt firing or resignation under pressure of demotions, loss of future benefits or deteriorating work conditions. The damage to their bottom line is often permanent. When many find new positions, they are often jobs that are significantly below both their skill levels and previous pay grades, such as the former corporate executive ProPublica discovered working at a print shop, as a bartender *and* staffing the front desk at a local gym.

Making matters worse: The retirement prospects for many younger baby boomers and members of Generation X look dismal, as the shift from workplace pensions to the do-it-yourself 401(k) has left millions of people without the resources to maintain even a semblance of their current lifestyle in retirement. As a result, surveys say a majority of Americans plan to work well past the traditional retirement age, with many claiming they will collect a paycheck till they drop.

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But then, well, *something* happens. Age discrimination is an issue in famous industry centers such as Hollywood, where female actresses' earnings [peak](#) at the age of 34, and Silicon Valley, where Mark Zuckerberg famously proclaimed, "Young people are just smarter." IBM has been sued for targeting older employees for layoffs, as have restaurant chains including [Ruby Tuesday and Texas Roadhouse](#). Even former Cleveland Cavaliers assistant coach Jim Boylan [filed](#) an age discrimination lawsuit against his former team last fall, claiming his contract was not renewed because he's over the age of 60. According to [AARP](#) survey work, a large majority of employed Americans over the age of 45 say they've either been personally impacted by or known of age discrimination occurring at their job. We also know it takes people over 55 significantly longer to find a new position than it takes someone younger. [Academic research](#) demonstrates that employers are less likely to hire older workers, especially if those workers are women.

But age discrimination has never been easy to prove in individual cases, and [a 2009 Supreme Court decision](#) (*Gross v. FBL Financial Services*) has made it much more difficult. Before the ruling, a plaintiff needed to show that their age was among the reasons they had been targeted for a layoff or not received a job offer. The court significantly toughened the standard, forcing future plaintiffs to demonstrate their age was the main or determining reason for their employers' behavior. In other words, workers have to prove that, as lawyers like to say, the action wouldn't have happened "but for" their age. It's an extremely difficult standard to meet. "It's rare for an employer to say, 'I don't want to hire you or I am going to fire you because you are too damn old,'" says Laurie McCann, a senior attorney with the AARP Foundation.

Yet, despite the fact that they are more likely to vote than their younger peers, Americans over the age of 50 aren't putting significant pressure on politicians to do something about age discrimination. Many seem to think it won't happen to them till it does. This likely has much to do with self-help shibboleths in American culture, a belief we personally can surmount greater economic and social forces. Articles abound advising older workers to "[Be a lifelong learner](#)," telling them "[How to get a job if you are over 50](#)" and suggesting they "[Check Your Attitude](#)."

As a result, Washington is doing little to help. Bipartisan [legislation](#) that would restore the protections undone by the 2009 Supreme Court decision and sponsored by Democratic Sens. Robert P. Casey Jr. (Pa.) and Patrick J. Leahy (Vt.) and Republicans Susan Collins (Maine) and Charles E. Grassley (Iowa) languished in the most recent session of Congress. (Casey's office says he plans to reintroduce the bill.) It's also worth noting that health-care reform, either full-on Medicare-for-all or simply offering buy-ins for people over the age of 55,

2/11/2019 Age discrimination is more common than you think. Why aren't we doing anything about it? The Washington Post would likely combat age discrimination, because the higher cost of insuring older workers makes some employers reluctant to employ them.


Enabling age discrimination is both a moral embarrassment and an ongoing personal finance catastrophe. Perhaps the new Congress, where Democrats now control the House, can finally move to restore legal protections for older workers.

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Helaine Olen is a contributor to Post Opinions and the author of "Pound Foolish: Exposing the Dark Side of the Personal Finance Industry." Her work has appeared in Slate, the Nation, the New York Times, the Atlantic and many other publications. She serves on the advisory board of the Economic Hardship Reporting Project. [Follow](#) 

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