

Age Bias That's Barred by Law Appears in Thousands of Job Listings

With the words they use, employers keep experienced workers from applying

by Kenneth Terrell, [AARP](#), October 30, 2019

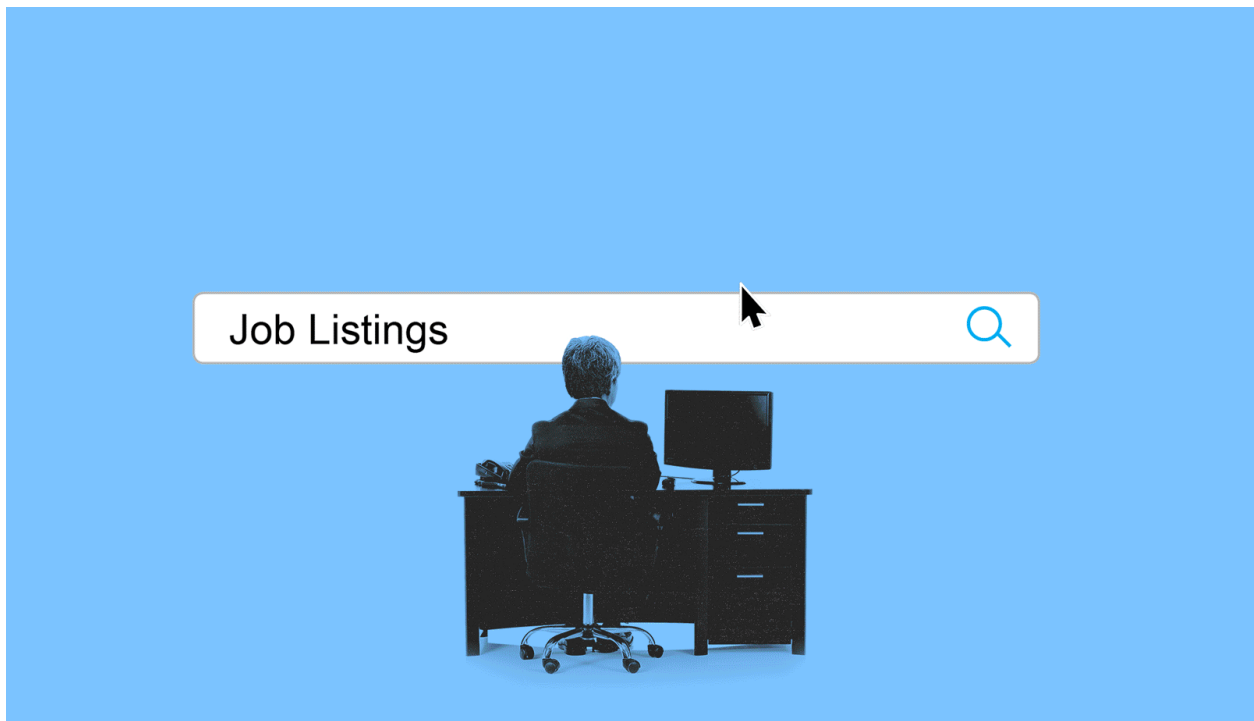


ILLUSTRATION BY PAUL SPELLA

[En español](#) | "This is an excellent opportunity for a recent college graduate looking to get their start in automotive!!" reads a recent job posting on LinkedIn.

"The ideal candidate is a digital native that is fueled by big ideas, driven by measurable results and is inspired to lead," says another posting, also on LinkedIn, for a mid-level marketing position at Amazon.

"Current College Students — Now Hiring Product Demonstrators!" says a third ad, from a company that specializes in product demonstrations and wants candidates with flexible hours.

The common thread through these three postings: Each uses age-biased language that is discouraged by advocates for older workers and in some cases could be legal evidence of discrimination.

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More than half a century after a federal law was passed to give older adults a fair chance at competing for job openings, employers — either by design or out of carelessness — continue to post jobs in ways that [suggest bias against older applicants](#).

The federal government has warned employers against using terms like “recent college graduate” or “college student” in postings because they could be considered evidence of age bias. But a search conducted by AARP in October on three major sites for job postings — LinkedIn, Indeed.com and Monster.com — turned up thousands of want ads that use these phrases.

LinkedIn had 4,749 job postings with the term “recent college graduate,” Indeed had 1,124, and Monster had 513. The numbers are a small fraction of the millions of job openings posted online, but they still represent thousands of instances in which older candidates might not have received a fair shot at a job.

The fact that these terms appear so frequently despite clear guidance from the Equal Employment Opportunity Commission (EEOC) that they may be violations of federal anti-discrimination law suggests that many employers are either unaware of or indifferent to the regulations. But older job seekers, who account for more than 20 percent of the nation's workforce — up from 13 percent just 20 years ago, and still rising — are likely to pick up on these signals and decide not to apply.

"Every bone in your body says, 'Your chances of getting this job are practically zero.'"

— MARK GOLDSTEIN

"That's why those terms were put on the list when the regulation was drafted," says Raymond Peeler, an attorney for the office of legal counsel at the EEOC. "The thinking was that they would discourage older workers from applying because it implies that the employers are looking for younger workers."

Age discrimination in hiring has two main causes, experts say. First, employers incorrectly assume that older workers will cost them more in salary, benefits or both.

Second, they often may think, as Facebook CEO Mark Zuckerberg said in 2007, that “young people are just smarter.”

Mark Goldstein was laid off from his cybersecurity job in 2017 and has since seen thousands of ads seeking “recent college graduates.”

"Every bone in your body says, ‘Your chances of getting this job are practically zero, because they are biased against older employees’,” Goldstein says. “But you try anyway.”

Goldstein has unsuccessfully applied for many openings, including for a large national company, during his ongoing job search.

"I did not hide the fact that I had graduated over four decades ago because I wanted them to know that I had all the requirements that they listed in terms of skills and experience,” he says. “But the one thing that I couldn't do was to be a recent college graduate. I heard almost immediately that I was rejected.”

He has filed a complaint with the EEOC.

Is Bill Gates, 64, tech savvy?

Beyond the terms the EEOC specifically warns against, employers sometimes use code words in job postings to imply a preference for younger candidates. Think “cultural fit,” “tech savvy,” “go-getter,” “high energy.”

Nothing in these phrases is automatically age-specific, but they can discourage older job seekers just the same. Despite efforts from some human resource departments to raise awareness about why these buzzwords might be biased, recruiters still commonly use them, perhaps to make job opportunities sound exciting to younger candidates.

"The typical unemployed older worker has been on an extended job search and has sent out dozens of résumés or applied to lots of online jobs, only to hear nothing back,” says Laurie McCann, a senior attorney for AARP Foundation who represents victims of age discrimination in court.

"They're going to see some of those terms and decide they're not going to waste their time and energy to apply to a job that's sending a clear signal: ‘We're not interested in older workers. We're looking for younger people and we don't think older workers fit into our culture here. So stay away.’”

Another potential code word for age bias: “digital native.”

The phrase describes people who grew up using internet technology — anyone born in the 1980s or later, essentially. People who learned how to use those technologies later in life are sometimes called “digital immigrants.”

Of course, how old you were when you started using the internet or smartphones is no indicator of how sharp your skills with those devices are today. For some employers,

asking for candidates who are digital natives has become shorthand for asking for younger applicants, advocates for older workers say.

AARP found that “digital native” appears frequently in job postings. A search on one day in July found the phrase in 378 postings on LinkedIn nationwide, 79 on Indeed and 111 on Monster. It often appears in postings for jobs in the technology industry, which has been criticized for showing bias against older workers.

"The issue with a lot of these terms is not necessarily in the use of the terms, but in how the employers are interpreting them," Peeler says. "For example, an employer wants someone who is 'tech savvy.' Well, you know, Bill Gates is 64 years old now, and would you say that he's not tech savvy?"

"Employers need to be careful about not making stereotyped decisions based on age," Peeler says. "If they need someone to use computers when they're saying that they should be tech savvy then they shouldn't look at how old someone is to decide whether or not that's the case."

Origins of older worker protections

The powerful effects of the words employers use to advertise job openings is a main reason age discrimination laws exist in the first place. In 1965, the bias against older job seekers was so blatant that 25 percent of jobs were closed to applicants age 45 and older, according to a Labor Department report from that era.

Congress and President Lyndon B. Johnson took notice and enacted the [Age Discrimination in Employment Act of 1967](#), which protects individuals age 40 and older from discrimination in hiring, firing and all other terms and conditions of employment.

Although employers have mostly stopped using explicit age restrictions when advertising job openings, language that more subtly discriminates against older workers persists.

Policing that language has proven difficult. The sheer number of active online job postings is in the millions, and the EEOC would have to scrutinize them one at a time to see how specific phrases are used. For example, “recent college graduates” might be benign in a posting for a career counselor tasked with helping “recent college graduates” find jobs.

"We investigate the charges raised before us, which includes looking at the surrounding circumstances to determine the employer's motive or the potential discriminatory effect of the employer's advertisement," says the EEOC's Peeler.

The agency can initiate investigations into discrimination in recruiting and hiring, but most of the time that process begins with a complaint from a job seeker. If workers or their advocates don't file a formal complaint, the EEOC may be unlikely to notice it.

"We don't have many people coming to job advertisements, looking at these things and then deciding they want to aggressively pursue" an age bias charge, Peeler says.

Of the 1,884 allegations of age discrimination in hiring the EEOC received in 2018, just 76 were specifically about advertising.

A lawsuit is “unrealistic,” says AARP Foundation's McCann, one of the attorneys representing more than 3,000 individuals who are [suing the accounting firm PricewaterhouseCoopers](#), alleging that they were rejected for jobs because the company has a preference for hiring candidates fresh out of college.

"For an older worker who's on a job search, when they see that ‘recent college graduate,’ it's unlikely that they're going to file a charge with the EEOC. Instead, they're going to say, ‘Well, I'm not going to apply to that one’ and move on to the next one, because it's very hard to challenge age discrimination.

"Their goal is to find a job, not to seek justice for all,” she says. “That's why a lot of those ads go unchallenged.”

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Cycle of prejudice

The job portals that list the advertisements say individual employers are responsible for making sure the postings don't break antidiscrimination laws. In response to questions about the ads that seem to discriminate based on age, LinkedIn spokesperson Marisa Ayyar noted that the company offers courses to educate recruiters on overcoming bias in the hiring process.

"Through LinkedIn Learning courses, we help talent leaders tackle hiring bias, and better embrace the diversity of different voices and identities for a more inclusive and productive workforce,” she said via email. “These courses help to tackle inadvertent language bias, providing guidance on how to embrace diversity at every level and increase the productivity of an existing workforce by harnessing different voices and talents.”

Neither Indeed nor Monster responded to requests for comment. Both companies' websites note that employers are solely responsible for the content of their job postings and that the postings must comply with relevant local and national equal employment opportunity laws.

Amazon posted a position in July seeking a senior copywriter to help with the marketing of its Ring home security system. Although many older workers likely would have the experience to qualify for this job, the posting says “the ideal candidate is a digital native that is fueled by big ideas.”

Verizon posted a position for director of digital technology — “a key leadership position,” as the ad notes — that included “you are a digital native” at the top of its list of key criteria.

The term also pops up in job postings where technology skills seem less essential to job duties. Positions as greeters and hosts are often thought of as roles for which older workers are well suited, given their years of experience interacting with different types of people. But in a July job posting seeking a greeter for its New York City store, luxury fashion brand Chanel asks candidates if they are “a digital native.”

Chanel removed the reference to “digital native” from the posting after AARP contacted it during the reporting for this article. “Under no circumstances were we excluding any candidate,” a spokesperson said. “Rather, we were alerting applicants that there was a digital component to this particular position. We are an Equal Opportunity Employer and take pride in a diverse environment.”

A spokesperson for Amazon said the company should not be using “digital native” to describe qualifications in any job posting and that the company will review its current listings to make sure the phrase is not being used elsewhere. Verizon did not respond to a request for comment.

— *Owen Stidman contributed to this report*