



Leadership Council of Aging Organizations

Debra B. Whitman, Chair

December 9, 2019

The Honorable Mitch McConnell, Majority Leader
The Honorable Chuck Schumer, Minority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi, Speaker
The Honorable Kevin McCarthy, Minority Leader
United States House of Representatives
Washington, DC 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, and Minority Leader McCarthy:

The Leadership Council of Aging Organizations (LCAO) is a coalition of 69 national nonprofit organizations concerned with the well-being of America's older population and committed to representing their interests in the policy-making arena.

We are writing to urge you to vote for passage of the Protecting Older Workers Against Discrimination Act (S. 485, H.R. 1230). The Protecting Older Workers Against Discrimination Act (POWADA) is bipartisan and bicameral legislation sponsored in the Senate by Senators Bob Casey (D-PA) and Chuck Grassley (R-IA). The House version is sponsored by Representatives Bobby Scott (D-VA) and Jim Sensenbrenner (R-WI). The House Education and Labor Committee voted on June 11, 2019 to approve POWADA.

Age discrimination is pervasive and stubbornly entrenched. Six in 10 older workers have experienced age discrimination and 90% of them say it is common. It is even more pervasive among older women and African American workers; nearly two thirds of women and three-fourths of African Americans say they have seen or experienced workplace age discrimination.

Courts have not taken age discrimination as seriously as other forms of discrimination and older workers have fewer protections as a result. Ten years ago, in *Gross v. FBL Financial Services Inc.*, the Supreme Court set a higher standard of proof for age discrimination than previously applied and much higher than for other forms of discrimination. Since *Gross*, court decisions have continued to chip away at protections. As a result, plaintiffs now have to prove that age was a determinative, "but-for" cause for their employers' adverse treatment of them. Before the *Gross* case, it was enough for plaintiffs to prove that age was one of the motivating factors. POWADA would restore the standard of proof in age

601 E Street, NW ♦ Washington, DC 20049
(202) 434-3951 – Direct Line ♦ (202) 434-3720 – Reception Line
Email: LCAO@aarp.org ♦ Website: www.LCAO.org

discrimination cases to the pre-2009 level, and treat age discrimination as just as wrong as other forms of employment discrimination. Moreover, because courts have applied *Gross*' higher burden of proof to retaliation charges and to disability discrimination, it would also amend the Age Discrimination in Employment Act, Title VII's provision on retaliation, the Americans with Disabilities Act, and the Rehabilitation Act of 1973.

Please vote to restore fairness for older workers by passing the Protecting Older Workers Against Discrimination Act (S. 485, H.R. 1230).

Sincerely,

The Undersigned Groups of the Leadership Council of Aging Organizations

AARP
 AFL-CIO
 AFSCME
 Aging Life Care Association
 Alliance for Retired Americans
 American Association of Service Coordinators
 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
 B'nai B'rith
 Consumer Voice
 International Association for Indigenous Aging
 Justice in Aging
 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 Hispanic Council on Aging
 National Senior Corps Association
 Pension Rights Center
 PHI
 Social Security Works
 The Gerontological Society of America
 The Jewish Federations of North America
 Women's Institute for a Secure Retirement (WISER)

cc: Members of Congress

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