

Can employers force older workers to retire?

Q. Can we legally set a mandatory retirement age for our workers?

A. It's still a fairly common misconception that businesses can force employees to retire at a certain age.

With the exception of a few limited circumstances, mandatory retirement ages are about as close to a slam-dunk case of illegal age discrimination as you can find. Those exceptions permit—but do not require—mandatory retirement:

- At age 65 for executives or other employees in high-ranking, policy-making positions.
- At age 55 for publicly employed firefighters and law enforcement officers.

Forcing an employee to quit is the same as requiring an employee to retire. While lessening duties and responsibilities, demotions and reductions in pay could cause an older employee to retire, it could also cause that same employee to claim a constructive discharge.

However, there is no law that says an older employee does not have to meet the same legitimate expectations of the job as any other employee. If an older worker is not performing as well as needed or required, document the shortcomings and treat the older employee the same as you would any other employee.