

When determining termination for valid business reasons, there is a McDonnell Douglas test, which says:

- An employee must make a threshold [prima facie] showing of discrimination.
- An employer must show a legitimate and nondiscriminatory reason for taking the action.
- An employee must show that the employer's stated reason was a pretext for discrimination.

In age discrimination cases, these are the more important factors:

- is there a valid nondiscriminatory reason for termination
- is there adequate, thorough and impartial investigation
- were the stated reasons held in good faith at the time of the discharge
- the existence of a “but-for” factor -> age must be the factor that have made the difference in the adverse employment action
- the “cat’s paw” theory -> there must be discrimination on the part of those in a position of authority other than the person who made the ultimate decision as long as the ultimate decision maker was actually under the influence of those other individuals.

42 U.S.C. § 12111(9) has these:

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

On the other hand, 29 C.F.R. § 1630.2(o)(1) has these:

- (i) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- (ii) Modifications or adjustments to the work environment . . . that enable an individual with a disability who is qualified to perform the essential functions of that position; or
- (iii) Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

Sexual harassment is actionable under a hostile work environment theory if the harassing conduct is sufficiently severe to alter the conditions of the victim's employment and working environment. This is going to be held true regardless of whether such environment is created by a fellow employee or non-employee since the employer is the one who is ultimately in control of the conditions of the work environment. When it comes to retaliation claim, one must prove that he/she had suffered an adverse employment action. Timing is also critical to proving a retaliation charge, as there is a need to prove a causal connection between the relevant events and the corresponding employment action. You also want to know that in Title VII there is an anti-retaliation provision which prohibits any employer action that may dissuade a reasonable worker from making or supporting a charge of discrimination.

FLSA exemptions

To qualify for FLSA executive exemption, these tests must be met: