The Protecting Older Workers Against Discrimination Act (POWADA)

Led by Senators Bob Casey and Chuck Grassley

Why do we need POWADA?

In 2009, the Supreme Court ruled in Gross v. FBL Financial Services that workers who face age discrimination must meet a higher burden of proof than workers who face discrimination based on other characteristics like race, sex, national origin or religion.

The court ruled that, whereas for decades a worker needed to prove only that discrimination was a factor in an adverse employment decision to make an age discrimination claim, now a worker needs to prove it was the deciding factor in that decision. This significantly weakened the protections of the Age Discrimination in Employment Act (ADEA) and sent a clear signal to employers: some age discrimination is perfectly fine.

What would POWADA do?

POWADA would amend the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Rehabilitation Act of 1973 and the retaliation provision in Title VII of the Civil Rights Act of 1964 to level the playing field for older workers. The bill would restore the pre-Gross standard, recognizing once again the legitimacy of so-called "mixed-motive" claims in which discrimination is a, if not the deciding, factor. It would also reaffirm that workers may use any type of admissible evidence to prove their claims.

It's time to level the playing field.

A survey conducted by AARP in 2018 found that more than three in five workers ages 45 and above reported seeing or experiencing age discrimination in the workplace. The survey also found that three quarters of these workers cited age discrimination as a reason for their lack of confidence in being able to find a new job. Age discrimination is a key reason why many older Americans have trouble finding work after a period of unemployment and struggle to return to the workforce. Age discrimination is unacceptable, and victims of age discrimination should have equal access to the courts.

Cosponsors: Senators Grassley, Hassan, Collins, Baldwin, and Murkowski