

Kansas Administrative Regulations

Kansas Human Rights Commission

Article 80.—Age Discrimination in Employment

21-80-5. Differentiations based on necessary factors other than age.

(a) If an employment practice uses age as a limiting criterion, the defense that the practice is justified by a necessary factor other than age is unavailable.

(b) Any employment practice, including a test, which is claimed as a basis for different treatment of employees or applicants for employment on the grounds that it is a necessary factor other than age, may only be justified on the basis of business necessity or valid business motive if such a practice has an adverse impact on individuals within the protected age group. Tests which are asserted as reasonable factors other than age will be scrutinized in accordance with the standards set forth at Article 30 of these regulations.

(c) If the exception of a necessity factor other than age is raised against an individual claim of discriminatory treatment, the employer shall bear the burden of proving the necessary factor other than age.

(d) An employment practice based on the average cost of employing older employees as a group shall be unlawful except with respect to employee benefit plans which qualify for the section 1113(b)(2) exception to the Kansas age discrimination in employment act.

(Authorized by K.S.A. 1991 Supp. 44-1121; implementing K.S.A. 1991 Supp. 44-1113; effective Dec. 28, 1992.)

***** Authenticated Kansas Administrative Regulation *****