

Workplace Rules

The Information Maryland Local Government Employers Need to Know

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ALL PUBLIC ENTITIES ARE DEEMED TO BE AN “EMPLOYER” UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT, REGARDLESS OF SIZE

Is a public entity with fewer than twenty employees still an “employer” under the Age Discrimination in Employment Act (ADEA)? Yes, according to a recent unanimous decision of the Supreme Court in *Mount Lemmon Fire District v. Guido, et al.*, -- S. Ct. – (U.S. Nov. 6, 2018).

Public entities are now automatically deemed to be an “employer” under the ADEA, regardless of size.

Two Mount Lemmon firefighters sued their municipal employer in Arizona for age discrimination pursuant to the ADEA. The municipality responded that it was too small to qualify as an “employer” under the ADEA because it employed less than twenty employees. The Supreme Court rejected that argument, however, holding that the statute’s definitional provision contains two distinct parts, bringing within its scope both employers engaged in an industry affecting commerce with twenty or more employees;

and States or political subdivisions with no attendant numerosity limitation. Thus, all counties and municipalities are deemed an “employer” under the ADEA regardless of size. This decision eliminates the possibility of a smaller municipality faced with an age discrimination claim from arguing that it does not qualify as an “employer” under the ADEA, and thus could not be held liable.

The Court’s full opinion is available for reading and downloading at:

https://www.supremecourt.gov/opinions/18pdf/17-587_n7ip.pdf

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