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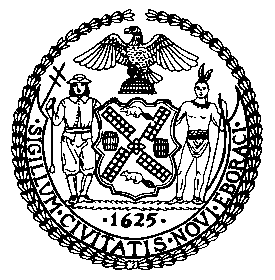
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**THE COUNCIL OF THE CITY OF NEW YORK**

**BRIEFING PAPER AND COMMITTEE REPORT OF THE**

**HUMAN SERVICES AND GOVERNMENTAL AFFAIRS DIVISIONS**

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**COMMITTEE ON AGING**

*Hon. Margaret Chin, Chair*

**COMMITTEE ON CIVIL AND HUMAN RIGHTS**

*Hon. Mathieu Eugene, Chair*

October 8, 2019

**INT. NO. 1684:** By Council Members Ayala, Chin, Louis, Kallos and Eugene

TITLE:A Local Law to amend the administrative code of the city of New York, in relation to requiring the commission on human rights to create a poster on age discrimination and requiring city agencies to display the poster

**INT. NO. 1685:** By Council Members Ayala, Chin, Louis, Kallos and Eugene

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to providing age discrimination training to city agencies

ADMINISTRATIVE CODE: Amends Chapter 1 of title 8 by adding new section 8-133

**INT. NO. 1693:** By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos and Eugene

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to establishing a task force to address and eliminate age discrimination in the workplace

**INT. NO. 1694:** By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos and Eugene

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to an office of older adult workforce development

CHARTER: Amends Chapter 1 by adding new section 13-c

**INT. NO. 1695:** By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos and Eugene

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to establishing an age discrimination in employment testing program

**I. INTRODUCTION**

On October 8, 2019, the Committee on Aging, chaired by Council Member Margaret Chin, and the Committee on Civil and Human Rights, chaired by Council Member Mathieu Eugene, will hold a hearing on a package of legislation addressing age discrimination in the workplace. The Committees will consider Int. Nos. 1684 and 1685, sponsored by Council Member Diana Ayala, and Int. Nos. 1693, 1694, and 1695, sponsored by Council Member Margaret Chin.

Int. No. 1684 would require the New York City Commission on Human Rights (CCHR or the Commission) to create a poster on age discrimination and require other city agencies to display the poster. Int. No. 1685 would require CCHR to create a training to prevent and eliminate discrimination in the workplace and provide the training to city agencies once per year. Int. No. 1693 would create a task force to study age discrimination in the workplace and require the task force to issue recommendations within 12 months. Int. No. 1694 would create an Office of Older Adult Workforce Development, and Int. No. 1695 would require CCHR to conduct investigations of age discrimination in the workplace in an employment testing program.

The Committees previously held an oversight hearing on “Age Discrimination in the Workplace” on September 17, 2018. During that hearing, both CCHR and the Department for the Aging (DFTA) testified that they undergo efforts to help ensure that older adults are protected against forms of age discrimination. For example, CCHR frequently provides Know Your Rights information on age discrimination and protections under the City Human Rights Law to community based organizations and senior centers, and DFTA conducts Know Your Rights events and work with employers to hire older adults.[[1]](#footnote-1) Despite the agencies’ efforts, age discrimination is still prevalent in NYC, and a large number of such discrimination goes unreported. At the 2018 hearing, CCHR testified that within the previous two years, the commission filed only 112 complaints on behalf of individuals alleging age discrimination- the majority of which were in the employment context.[[2]](#footnote-2) This rate is significantly low for a city of over 1.1 million adults over age 65,[[3]](#footnote-3) and when considering national trends related to age discrimination in the workforce.[[4]](#footnote-4) As reported by the mayoral administration, this may be due to the fact that age discrimination often occurs during the hiring stage, which is very difficult for victims to prove.[[5]](#footnote-5) DFTA also testified that while it does not collect data related to age discrimination, it has heard anecdotally from seniors about their challenges with securing and retaining employment.[[6]](#footnote-6)

During today’s hearing, the Committees will examine the progress the administration has made, since the last hearing, with ensuring that instances of age discrimination are reported by older adults and that such discrimination is effectively addressed. Additionally, the Committees will hear a package of legislation that will help address ongoing issues related to age discrimination in the workforce. The Committees have invited representatives from DFTA, CCHR, and various advocates, stakeholders, and the public to testify.

**II. BACKGROUND**

Nationwide, older adults are increasingly the victims of age discrimination in the workplace. Age discrimination, according to the United States Equal Employment Opportunity Commission (EEOC), “involves treating an applicant or employee less favorably because of his or her age.”[[7]](#footnote-7) During fiscal year (FY) 2017, age discrimination represented 21.8 percent of complaints made to the EEOC, with 18,376 total complaints filed[[8]](#footnote-8) and most of which were filed by women.[[9]](#footnote-9) In a recent national survey conducted by the American Association of Retired Persons (AARP) of adults older than 45, 61 percent of respondents indicated that they have seen or experienced age discrimination in the workplace, and 38 percent of these respondents indicated that such discrimination is “very common.”[[10]](#footnote-10) Nineteen percent of these respondents indicated that they were not hired due to their age, and 12 percent indicated that they were not promoted because of their age.[[11]](#footnote-11)

Additionally, a 2013 study by the Associated Press-NORC Center for Public Affairs Research at the University of Chicago, found that among those who are retired, 33 percent reported that they did not feel they had a choice except to retire.[[12]](#footnote-12) Overall, the study reported 20 percent of adults aged 50 or older said they have personally experienced prejudice or discrimination because of their age in the job market or at work, including: “being passed over for a raise, promotion, or chance to get ahead; receiving certain unwanted assignments; or being denied access to training or the opportunity to acquire new skills because of their age.”[[13]](#footnote-13)

Age discrimination in the workplace is not only seen nationally; although recent data is more limited, NYC’s older adult population has also expressed experiencing age discrimination in the workplace. In a 2013 AARP survey administered to NYC voters aged 50 and older, 50 percent of respondents indicated that they have experienced or witnessed age discrimination in the workplace or while searching for a job.[[14]](#footnote-14) Of these respondents, 26 percent believed they were not hired for a job due to their age

27 percent indicated that they were urged to retire before they preferred to, and 23 percent stated that they were laid off, terminated, or have been pushed out of their job since turning 50 years old.[[15]](#footnote-15)

While age discrimination persists in the City, the number of NYC older adults in the workforce is also increasing. According to a 2017 report released by New York City Comptroller Scott Stringer, from 2005-2015, the number of working older adults increased by 62 percent, and, specifically, the number of seniors in the City’s labor force increased from 13 percent to 17 percent.[[16]](#footnote-16) Although recent data is limited, in 2015, the Robert N. Butler Columbia Aging Center and the New York Academy of Medicine reported that there were more than 700,000 individuals, aged 55 and older, in NYC’s workforce.[[17]](#footnote-17)

Notably, digital platforms have recently come under scrutiny for their online job recruitment practices. According to The New York Times, corporations such as Verizon, Amazon, Goldman Sachs, and Facebook have placed recruitment ads limited to certain age groups on Facebook.[[18]](#footnote-18) Advocates argue that such practice is discriminatory against older workers, and experts are concerned that these recruitment practices may violate the federal Age Discrimination in Employment Act.[[19]](#footnote-19)

This, then, seems to be the current state of age discrimination in the workplace; although the population of older workers continues to grow rapidly, technology and stereotypical views toward the aging population make it potentially easier for employers to effectively discriminate against these same workers based on age— often leading to harmful consequences.

**Consequences and Effects of Age Discrimination**

*Stereotypes and Bias*

Although New York City has some of the strongest anti-discrimination laws in the country, older workers continue to face discrimination and harassment due to their age. For example, of the 193 age-related inquires made by New Yorkers last year to CCHR, 119 of these were regarding discrimination in employment.[[20]](#footnote-20) According to these complaints, discrimination is experienced at all stages of employment—hiring, firing, training, and promotion—and is often perpetrated because of stereotypes about older workers.[[21]](#footnote-21)

Academic research shows that negative preconceptions about older workers persists, despite evidence that disproves them.[[22]](#footnote-22) These stereotypes include assumptions such as: older workers being less flexible, alert, and productive; or needing to take more sick leave days because of health issues.[[23]](#footnote-23) This is despite the fact that some research “suggests that older workers are [actually] generally more productive, because of their higher levels of organization, commitment and loyalty.”[[24]](#footnote-24) This incorrect bias against older workers is one of the causes of age discrimination. In a worldwide study conducted by Deloitte Consulting, for instance, 41 percent of the surveyed companies stated that they considered their aging workforce to be a competitive disadvantage.[[25]](#footnote-25) These negative assumptions results in older workers being undervalued, and less likely to be offered career development or promotion opportunities.[[26]](#footnote-26)

*Financial Security*

The financial security offered through steady, fairly-paid work is often denied to older workers because of discrimination and bias. The long periods of unemployment or underemployment many of these workers face have severe consequences on their financial health. For example, a recent paper has shown that the bankruptcy rates for older Americans has increased between 200 and 300 percent (depending on the age bracket) since 1991.[[27]](#footnote-27)

The biases and stereotypes that operate to either fire or prevent older workers from finding the employment they need and desire also push these workers into early retirement. According to data from the Equal Employment Opportunity Commission (EEOC), last year 55 percent of all of the age discrimination-related charges involved unfair dismissal.[[28]](#footnote-28) When newly-retired workers turn to Social Security earlier than they had planned, either as a substitute for or supplement to employment income, they are financially penalized because the benefit is calculated according to the age when an individual starts accessing it. As one author articulates, “[w]orkers who retire at age 62 suffer a 25 percent cut in their monthly Social Security benefit for the rest of their lives compared to workers who retire at age 66, and a 32 percent decrease when compared to workers who retire at age 70.”[[29]](#footnote-29)

*Health and Wellbeing*

In addition to financial security, continued employment for older people provides a range of benefits for an individual’s health and wellbeing. Research has shown improvements in the ability to sustain levels of cognitive functioning over longer periods for people who are able to work past the age of 65.[[30]](#footnote-30) Maintaining employment also helps tackle a sense of isolation and build a stronger sense of self-worth. For example, according to a US Senate report into the country’s aging workforce, “[o]lder workers are more likely than younger workers to report that their job provides personal fulfillment and a sense of being needed and valued, as well as opportunities to learn new skills and remain physically, cognitively, and socially active.”[[31]](#footnote-31)

While the benefits of working later in life extend beyond a person’s financial bottom-line, so do the negative consequences of age discrimination. For instance, “a 2013 Urban Institute report found that 63 percent of long-term unemployed or underemployed workers in 2011 skipped dental visits, 56 percent put off healthcare and 40 percent did not fill medical prescriptions. Many older adults who have jobs are vulnerable to bullying or mistreatment, realizing if they quit, they face joblessness, loss of health benefits and poverty.”[[32]](#footnote-32) Meanwhile, “[f]orced retirement correlates with significant declines in mental and physical health that can lead to shortened life spans.”[[33]](#footnote-33)

Discrimination, in general, has many negative effects on mental and physical health and wellbeing, and the age discrimination experienced by older workers shows similar negative consequences.[[34]](#footnote-34) Research shows that this is especially true for older women in the workforce, as they often face gendered age discrimination.[[35]](#footnote-35) Such research has found that women who have experienced age discrimination experienced an increase in depressive symptoms and that the perceived financial strain of this discrimination has often perpetuated these symptoms.[[36]](#footnote-36)

**III. CITY SERVICES FOR OLDER WORKERS**

**Employment Services at the New York City Department for the Aging (DFTA)**

DFTA provides many services to assist older adults with finding employment. DFTA’s Senior Employment Services Unit (SESU), which is part of the federal Community Service Employment Program, helps seniors receive employment in administrative work, customer service, home care, and other fields.[[37]](#footnote-37) SESU offers trainees assistance with job-searching, resume writing, and interviewing.[[38]](#footnote-38) Additionally, SESU provides training on the job and the opportunity for participants to earn a wage through placements at government agencies and nonprofits.[[39]](#footnote-39) To qualify for SESU services, participants must be 55 or older, unemployed, and have a family income of 125 percent or less than the federal poverty level.[[40]](#footnote-40)

In addition to SESU services, DFTA offers the ReServe program, through a contract with ReServe Elder Services, which matches retirees with short-term NYC agency projects.[[41]](#footnote-41) At the Aging Committee’s 2018 hearing on “Age Discrimination in the Workplace,” DFTA testified that there were 251 individuals in the city’s ReServe program.[[42]](#footnote-42) DFTA also provides a Home Health Aide Referral Program, which has partnerships with 12 health care agencies that are interested in employing older adults.[[43]](#footnote-43) According to DFTA’s 2017 Annual Plan Summary, the agency has partnerships with Security Companies and the Airport Opportunities Inc. to help older adults gain employment in these fields.[[44]](#footnote-44)

**Age Discrimination Complaints at the New York City Commission on Human Rights**

An individual who believes that they have been discriminated against in their employment because of age can file a complaint with CCHR. Members of the public may file a complaint with the Commission’s Law Enforcement Bureau (LEB) or a lawyer may file a complaint with the LEB on a client’s behalf.[[45]](#footnote-45) After a complaint is filed, the Commission’s LEB investigates the allegations to determine whether probable cause exists to credit the allegations of unlawful discrimination.[[46]](#footnote-46)

If LEB makes a finding of probable cause, LEB may litigate the case at the Office of Administrative Trials and Hearings.[[47]](#footnote-47) At various stages of the process, the Commission also offers alternative resolutions such as mediation or conciliation.[[48]](#footnote-48) Further, the Commission may pursue various remedies in the resolution of a complaint, including ordering an employer to cease and desist from engaging in unlawful conduct, reinstating an employee, providing an accommodation, requiring respondents to take actions such as trainings, and ordering pay for lost wages, emotional distress damages, and civil penalties.[[49]](#footnote-49)

**IV. LEGAL PROTECTIONS AND REMAINING ISSUES AND CONCERNS**

**Current Legal Protections**

Although it persists in the workplace, age discrimination in employment is prohibited by federal, state, and local laws. Generally, it is unlawful for employers, employment agencies, apprenticeship programs, and labor organizations to discriminate against an employee or a job applicant because of their age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.[[50]](#footnote-50) However, there are slight differences in the ways in which age as a protected class is defined under each of these laws and the employers it covers.

For example, the Age Discrimination in Employment Act of 1967 (ADEA)[[51]](#footnote-51), the federal law that prohibits employers from discriminating against individuals on the basis of age, applies to employers with 20 or more employees and protects individuals who are 40 years of age or older.[[52]](#footnote-52) The state law that prohibits age discrimination in employment, the New York State Human Rights Law, is considerably broader, covering employers with four or more employees, and protecting persons who are 18 years of age and over from age discrimination in employment.[[53]](#footnote-53) Finally, the law which most expansively prohibits age discrimination in employment is the local one; the New York City Human Rights Law (NYCHRL) applies to employers with four or more employees and protects persons of all ages from discrimination based on age or perceived age.[[54]](#footnote-54)

Individuals who wish to pursue a claim alleging age discrimination have several forums available to them, including state court, federal court, the EEOC, the New York State Division of Human Rights (NYSDHR), and CCHR. In order to establish a claim for unlawful age discrimination at these bodies under the ADEA, New York State Human Rights Law, or NYCHRL, an individual must show: (1) they are a member of the class protected by the statute; (2) they were qualified for the position, or were performing it satisfactorily; (3) they suffered an adverse employment action; and (4) the adverse employment action was under circumstances giving rise to an inference of age discrimination.[[55]](#footnote-55) If an employer can then show their actions were taken for legitimate, nondiscriminatory reasons, the age discrimination suit will not be successful.[[56]](#footnote-56) Importantly, for age discrimination suits, courts have interpreted the NYCHRL to be more protective than even the ADEA; complainants filing such a suit under the NYCHRL generally have a lower burden to prove than is required under the federal law. [[57]](#footnote-57)

There are, however, also other federal laws that offer protections against age discrimination in specific contexts.[[58]](#footnote-58) For example, since employees may voluntarily release age discrimination claims, the Older Workers’ Benefits Protection Act (OWBPA)[[59]](#footnote-59) amended the ADEA to protect older workers with regard to employee benefits and prohibit employers from providing severance agreements or early retirement packages that favor younger workers.

**Remaining Issues and Concerns**

Across the country, 10,000 Baby Boomers turn 65 every day.[[60]](#footnote-60) Changes to the workplace, involving more technology or varied tasks, may be perpetuating biases against older workers. However, with only a small percentage of workers financially secure enough to retire, coupled with concerns about rising healthcare costs,[[61]](#footnote-61) workers are needing to stay in the workforce longer. The proliferation of age discrimination in the workplace makes it more difficult for these same older adults to find and maintain employment that may be necessary to their financial stability. Addressing discrimination as seemingly ubiquitous as age discrimination may require a multi-pronged strategy targeting employers, recruiters, enforcement officials, and legislative bodies.

One reason age discrimination may continue, for example, is because current enforcement measures are weak. Evidence from one field experiment, conducted by the Director of the Economic Self-Sufficiency Policy Research Institute at the University of California, Irvine, finds that “current policies to combat age discrimination, which rely in large part on private litigation for enforcement, may be ineffective at reducing or eliminating age discrimination in hiring.”[[62]](#footnote-62) “In particular,” the study writes, “the potential rewards to plaintiffs’ attorneys may be too low to encourage sufficient enforcement, because it is difficult to file a class action lawsuit, and economic damages from discrimination in hiring may be small.”[[63]](#footnote-63) Complicating matters, while plaintiffs can seek damages from private employers or the federal government in an age discrimination suit, they cannot collect damages against state employers, making attorneys reluctant to take such cases.[[64]](#footnote-64)

On a foundational level, it might be difficult to prove an age discrimination lawsuit at all. According to AARP Senior Attorney Laurie McCann, “age discrimination is very difficult to prove in a lawsuit. [I]t is extremely rare to have a ‘smoking gun’ statement akin to ‘you are too old to do the job.’”[[65]](#footnote-65) This particular difficulty is exacerbated, in part, because employers are not liable under the ADEA if they show their decisions were based on “reasonable factors other than age.”[[66]](#footnote-66) In the 2005 decision *Smith v. City of Jackson, Mississippi*,[[67]](#footnote-67) the Supreme Court held that claims of unintentional discrimination can be made under the ADEA as long as the discrimination is *not* based on reasonable factors *other* than age.[[68]](#footnote-68) The unintended consequence of this decision has been that employers are able to pass over older adults for hiring or promotions so long as they can show they are not making those decisions because of age.[[69]](#footnote-69) For example, employers might use passing a physical strength test as a proxy for age discrimination, but would be able to indicate failure to pass a physical examination as a valid reason for not hiring an individual.[[70]](#footnote-70) Thus, as most employers do not explicitly state they are discriminating based on age, proving age discrimination often relies on circumstantial evidence, making it difficult to prove discriminatory intent.[[71]](#footnote-71)

On the other hand, it is difficult to prove age discrimination even when plaintiffs can prove that age was a factor in being fired. Prior to 2009, workers were able to prove age discrimination so long as age was one of the factors considered in firing an employee. However, this changed with the Supreme Court’s decision in *Gross v. FBL Financial Services*.[[72]](#footnote-72) In *Gross*, the Supreme Court raised the standard required to prove age discrimination; after *Gross*, employees must prove that age was the *only* reason for their termination, and not one of many reasons.[[73]](#footnote-73) This means that in mixed motive cases, such as those where an employer considers age and race or age and gender, employees must have what amounts to an explicit statement that they were fired due to age in order to successfully prove age discrimination.[[74]](#footnote-74)

The current mechanisms to address age discrimination in the workplace, then, leave older adults vulnerable and unable to properly pursue their rights. Even where legislation, such as the ADEA and the NYCHRL, and rights enforcement bodies, such as the EEOC and CCHR, exist to protect older adults from employment discrimination, the actual mechanics of enforcement often obstruct older adults from receiving any relief at all. That is, older adults can pursue action against employment discrimination almost exclusively through litigation—however, age discrimination is often difficult, and costly, to prove. If older adults cannot be properly protected through litigation, then, the question remains what in what other ways can older adults be protected from age discrimination in the workplace?

**Addressing Age Discrimination in the Workplace**

Addressing age discrimination across all facets of employment will likely need to involve a multipronged approach; suggestions on how to protect older workers have included passing federal, state, and local legislation; creating additional enforcement and review mechanisms; training older workers in different skills and creating more spaces for them in the workplace; changing stereotypes and policies against older workers; and creating alternative career routes for older workers that feature more flexible assignments, schedules, and mentorship opportunities.

At the federal level, for example, one suggestion is to change Medicare rules to accept older workers; this would help shift older workers away from employer-based health plans, which might alleviate some healthcare cost-biases employers associate with older workers.[[75]](#footnote-75) Another suggestion involves “incentivizing employers by creating a 40-year cap on the total years of work requiring payroll tax contributions to Social Security.”[[76]](#footnote-76)

Another current approach to fighting age discrimination in employment appears in a recent federal lawsuit settled by The Ohio State University. The federal suit, brought by two women who worked in the English as a Second Language program at Ohio State, was unusually successful in the difficult post-*Gross* ADEA legal landscape.[[77]](#footnote-77) In November 2017, the EEOC found “reasonable cause to believe” that the women and their older colleagues had been discriminated against in violation of the ADEA.[[78]](#footnote-78)

In May 2018, Ohio State announced a settlement with the plaintiffs; not only did the university rehire both women and agree to back pay and retroactive benefits, the plaintiffs won “prospective injunctive relief.”[[79]](#footnote-79) What the latter means is that Ohio State must take specific actions to avert such illegal policies in the future.[[80]](#footnote-80) In this case, the university has agreed to train human resources staff to recognize, investigate, and prevent age discrimination.[[81]](#footnote-81) Furthermore, the university will establish a “second-look process,” which would be an independent review of age discrimination investigations.[[82]](#footnote-82) Both “prospective injunctive relief” as a remedy and the creation of a “second-look” independent review are potential creative ways to address age discrimination.[[83]](#footnote-83)

In terms of legislation, Senator Casey Robert Jr. introduced S.443 in February 2017; the Protecting Older Workers Against Discrimination Act would address and rescind the stringent standard the Supreme Court set for age discrimination suits in *Gross.* That is, S. 443 would amend the ADEA to allow complainants “to rely on any type or form of admissible evidence” to prove age discrimination and would allow age discrimination to be proved, even in mixed motive claims with multiple factors, as long as they can show that age was *a* motivating factor in the discriminatory employment practice.[[84]](#footnote-84) In other words, if passed, complainants would no longer be required to demonstrate that age was the *sole* reason they were fired in order to be successful in an age discrimination suit.

The Committees hope to learn more about these and other policy, legislative, and advocacy solutions during today’s hearing.

**ANALYSIS OF LEGISLATION**

***Analysis of Int. No. 1684***

Int. No. 1684 would require CCHR to create and distribute informational resources on age discrimination as part of its outreach and education efforts.

Section 1 of this bill requires CCHR to create an informational poster about age discrimination, including how to file a complaint with CCHR, to be used during outreach and education events and posted, along with additional resources, to the Commission’s website.

Section 2 of Int. No. 1684 requires every city agency to conspicuously display the poster created by Section 1 in employee breakrooms and other common areas for employees.

The bill provides that the local law would take effect 120 days after it becomes law.

***Analysis of Int. No. 1685***

Int. No. 1685 would amend chapter 1 of title 8 of the Administrative Code by adding a new section 8-133, requiring city agencies to require employees to take an age discrimination training annually.

New subdivision b of Int. No. 1685 would require the Commissioner of CCHR, in consultation with DFTA, to create a training and materials to help identify, prevent, and eliminate age discrimination in the workplace. This section requires CCHR to provide this training to each city agency at least once annually.

New subdivision c requires the Commissioner to post conspicuously to CCHR’s website any materials developed for the training.

New subdivision d additionally requires CCHR to post information on the Commission’s website about how to obtain relief for age discrimination in the workplace, including how to report such discrimination and what possible relief might be available to a complainant.

The bill provides that the local law would take effect 120 days after it becomes law.

***Analysis of Int. No. 1693***

Int. No. 1693 would create a task force to study and issue recommendations for how the City can establish mechanisms, resources, and services to help address and eliminate age discrimination in the workplace.

Section 1 of Int. No. 1693 creates a task force to study age discrimination in the work place. This section requires the task force to have 11 members, which includes the Commissioner of CCHR, or the Commissioner’s designee, and the Commissioner for DFTA, or the Commissioner’s designee, and one designee from the Department of Small Business Services. These task members would serve a term of 12 months and must be appointed within 60 days of the effective date of this law.

Subdivision e of this legislation requires the task force to meet at least twice quarterly and subdivision f requires the task force to submit an interim report to the Mayor, the Speaker of the Council, the Commissioner for CCHR, and the Commissioner for DFTA, on any progress the task force has made, including any preliminary data analyses or recommendations.

Subdivision g of Int. No. 1693 requires the task force to submit a final report to the abovementioned entities no later than 12 months after the final member of the task force is appointed. This report would give recommendations on how the City can address and eliminate age discrimination in the work place. In issuing these recommendations, the task force must consider a variety of data, reports, and policies existing across the city and the state.

Subdivision h outlines that the resultant report must include, at a minimum: a comprehensive background of age discrimination in the City, a survey of resources available within the City to help address age discrimination, recommendations on how to implement culturally competent age discrimination employee education, recommendations on how to address and eliminate age discrimination in the workplace in the City, including any policy or legislative priorities and initiatives, and an outline of the economic ramifications of ageism in the workplace.

The task force would dissolve upon submission of the report.

The bill provides that the local law would take effect immediately.

***Analysis of Int. No. 1694***

Int. No. 1694 would amend the New York City Charter by adding a new section 13-c that creates an Office of Older Adult Workforce Development.

Subdivision aof this legislation establishes an Office of Older Adult Workforce Development (“Office”). This Office would be established by the Mayor and headed by a coordinator appointed by the Mayor.

Section b establishes the powers and duties of the coordinator of the Office, which includes such responsibilities as: advising and assisting the Mayor in planning and implementing coordination among agencies that are involved in workforce development programs for older adults, creating a centralized website with resources for older adults to assist in career building, develop, and job support, establishing a centralized office to assist older adults join or re-join the workforce, review information obtained from 311 or other city agencies on complaints regarding age discrimination in the workplace and develop recommendations, guidelines, and protocols to address recurring problems or trends, and designating an individual to promote inclusion and retention of older adults in the workforce.

The bill provides that the local law would take effect 120 days after it becomes law.

***Analysis of Int. No. 1695***

Int. No. 1695 would establish an age discrimination in employment testing program at CCHR.

Section 1 of the legislation requires CCHR to organize and conduct no fewer than five investigations of age discrimination in the workplace per year for a period of three years. Each investigation is required to have at least two testers, one of which must present to be at least 50 years of age or older. The investigations are required to begin on or before January 15, 2020.

Subdivision b of this bill requires CCHR to submit an annual report to the Council on or before June 15 of each year. This report must include a variety of information about the investigations, including, at a minimum: the number of matched pair tests completed, the location of each test, the number of incidents of actual or perceived discrimination, and the details of any such incidents.

Subdivision c requires any incidents of actual or perceived discrimination encountered during these investigations to be referred to CCHR’s Law Enforcement Bureau.

The bill provides that the local law would take effect immediately.

Int. No. 1684

By Council Members Ayala, Chin, Louis, Kallos and Eugene

..Title

A Local Law in relation to requiring the commission on human rights to create a poster on age discrimination and requiring city agencies to display the poster

..Body

Be it enacted by the Council as follows:

Section 1. The commission on human rights shall include as part of its regular outreach and education efforts informational resources on age discrimination. Such informational resources shall include a poster created by the commission that describes age discrimination, provides examples of prohibited conduct and explains how to file a complaint. Such poster shall also include information on additional resources on age discrimination. Such additional resources shall be made available on the commission’s website.

§ 2. Every city agency shall conspicuously display the poster created by the commission on human rights on age discrimination in employee breakrooms or other common areas for employees. For purposes of this local law, the term “agency” has the same meaning as such term is defined in section 1150 of the New York city charter and shall include the offices of the borough presidents, the comptroller and the public advocate.

§ 3. This local law takes effect 120 days after it becomes law.

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Int. No. 1685

By Council Members Ayala, Chin, Louis, Kallos and Eugene

..Title

A Local Law to amend the administrative code of the city of New York, in relation to providing age discrimination training to city agencies

..Body

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 8 of the administrative code of the city of New York is amended by adding a new section 8-133 to read as follows:

§ 8-133 Age discrimination training. a. Definitions. For purposes of this section, the

following terms have the following means:

Agency. The term “agency” has the same meaning as such term is defined in section 1150 of the charter.

b. The commission, in consultation with the department for the aging, shall create a

training, including materials, to identify, prevent and eliminate age discrimination in the workplace. The department shall provide such training to each agency at least once per year.

c. The commission shall post conspicuously on the commission’s website any materials developed for the training as well as relevant additional resources about age discrimination in the workplace.

   d. The commission shall also post on the commission’s website information regarding how to obtain relief for age discrimination in the workplace, including how to report such incidents and what avenues of relief and action are available to those who have experienced such discrimination.

§ 2. This local law takes effect 120 days after it becomes law.

NJC

LS 11312

8/29/2019

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Int. No. 1693

By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos and Eugene

..Title

A Local Law in relation to establishing a task force to address and eliminate age discrimination in the workplace

..Body

Be it enacted by the Council as follows:

Section 1. a. There shall be established a task force to study age discrimination in the workplace, and to make recommendations within 12 months as to how the city, the New York city commission on human rights, and the department for the aging can establish mechanisms, resources and services to help address and eliminate age discrimination in the workplace.

b. The task force shall have 11 members as follows:

1. The commissioner of the New York city commission on human rights, or the commissioner’s designee, who will serve as chair;

2. The commissioner for the department for the aging, or the commissioner’s designee;

3. One designee from the department of small business services;

4. Four members appointed by the mayor, provided that at least one such member shall carry an economic background;

5. Four members appointed by the speaker of the council, including advocates from the aging and business communities.

c. Each member of the task force shall serve without compensation for a term of 12 months, to commence after the final member of the task force is appointed. All members shall be appointed within 60 days after the effective date of this local law.

d. The task force shall consult with agencies and may consult with interested members of the public, including but not limited to members of the aging community in the city of New York.

e. The task force shall meet at least twice quarterly and shall hold at least one public meeting prior to submission of the plan required pursuant to subdivision g of this section to solicit public comment on instances and patterns of age discrimination and how to address and eliminate age discrimination in the workplace.

f. At least six months before the issuing of the task force’s final report, the task force shall submit to the mayor, the speaker of the council, the commissioner for the New York city commission on human rights and the commissioner for the department for the aging an interim report on the task force’s progress, including any preliminary data analyses and preliminary policy recommendations.

g. No later than 12 months after the final member of the task force is appointed, the task force shall submit to the mayor, the speaker of the council, the commissioner for the New York city commission on human rights and the commissioner for the department for the aging a report of recommendations to address and eliminate age discrimination in the workplace. In developing such recommendations, the task force shall consider the following:

1. Data and reports of age discrimination in the workplace, nationally, within the state, and within the city, including any trends in different industries, demographic differences, age ranges, reporting statistics, and any successful remedies, within this jurisdiction or any other;

2. Existing department policies across city agencies, guidelines and resources related to age discrimination and reporting by victims thereof;

3. Existing methods and procedures for reporting and responding to allegations of age discrimination in the workplace, within city agencies and across the city;

4. Existing training programs to help older adults identify and respond to perceived age discrimination, within city agencies and across the city; and

5. The level of coordination among appropriate city, state and federal agencies and other relevant organizations with regards to efforts to address and report age discrimination in the workplace.

h. Such report shall also include, at a minimum:

1. A comprehensive background of age discrimination in the workplace in New York City, including national, state, and local data assessed;

2. A survey of resources available within the city and the state to help individuals and organizations address age administration;

3. Recommendations on how to implement culturally competent age discrimination employee education in the workplace;

4. Recommendations on how to address and eliminate age discrimination in the workplace in the city, including any policy and legislative priorities and initiatives; and

5. An outline of the economic ramifications of ageism in the workplace for older adults, for businesses, and for the city.

i. The task force required pursuant to this section shall dissolve upon submission of the report required pursuant to subdivisions g and h of this section.

§ 2. This local law takes effect immediately.

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LS #10089

6/11/2019

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Int. No. 1694

By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos and Eugene

..Title

A Local Law to amend the New York city charter, in relation to an office of older adult workforce development

..Body

Be it enacted by the Council as follows:

Section 1. Chapter 1 of the New York city charter is amended by adding a new section 13-c to read as follows:

§ 13-c. Office of older adult workforce development. a. The mayor shall establish an office of older adult workforce development. Such office may, but need not, be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor. Such office shall be headed by a coordinator who shall be appointed by the mayor or the head of such department. For the purposes of this section, “coordinator” means the coordinator of the office of older workforce development.

b. Powers and duties. The coordinator shall have the power and the duty to:

1. Advise and assist the mayor in planning and implementing for coordination and cooperation among agencies under the jurisdiction of the mayor that are involved in workforce development programs for older adults;

2. Establish a centralized office to assist older adults join or re-join the workforce, including through programs offering job training, job application assistance, job search assistance, and general career building, development and job support for older adults;

3. Create a centralized website with resources for career building, development and job support for older adults, including an updated list on different community based organizations and non-profit organizations that provide such assistance;

4. Provide information on how to report age discrimination in the workplace, including potential municipal and state remedies;

5. Review information obtained from 311 or other city agencies on complaints regarding age discrimination in the workplace and develop recommendations, guidelines and protocols to address recurring problems or trends, in consultation with industry representatives, advocates, city agencies, community boards and residents;

6. Designate an individual to promote the inclusion and retention of older adults in the workforce by coordinating with the department for the aging and other city agencies, including but not limited to the commission on human rights, the department of citywide administrative services and the department of small business services, in order to establish protocols to address age discrimination in the workplace, review complaints of age discrimination, and consult on job placements within city agencies for older adults.

7. Provide outreach and education on the services provided by the office; and

8. Perform other duties as the mayor may assign.

§ 2. This local law takes effect 120 days after it becomes law.

NJC  
5/17/19

LS# 10088

Int. No. 1695

By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos and Eugene

..Title

A Local Law in relation to establishing an age discrimination in employment testing program

..Body

Be it enacted by the Council as follows:

Section 1. Investigation of age discrimination in the workplace. a. For a period of three years, the commission on human rights shall organize and conduct no fewer than five investigations of age discrimination in the workplace per year, during which the commission shall use pairs of testers to investigate local employers, labor organizations or employment agencies and employees or agents thereof. Such investigation shall include but not be limited to sending out matched pairs of testers who shall apply for the same job and who shall present similar credentials but who shall not present the same actual or perceived age. Of the two testers, at least one shall present to be above the age of 50. The investigation shall commence on or before January 15, 2020.

b. On or before June 15 of each following year, the commission shall submit to the speaker of the council a report related to the aging investigation conducted during the prior 12 month period. Such report shall include, but not be limited to: (i) the number of matched pair tests completed; (ii) the location of each matched pair test; (iii) a description of any other tests or exercises done pursuant to such investigation; (iv) the number of incidents of actual or perceived discrimination; and (v) the details of any incidents of discrimination encountered during such investigation.

c. Any incidents of actual or perceived discrimination that occur during such investigation shall be referred to the commission’s law enforcement bureau.

§ 2. This local law takes effect immediately.

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LS #10086

5/21/2019

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15. Id. [↑](#footnote-ref-15)
16. New York City Comptroller Scott M. Stringer, *Aging With Dignity: A Blueprint for Serving NYC’s Growing Senior Population*, New York City Comptroller Bureau of Policy and Research, March 2017, available at <https://comptroller.nyc.gov/wp-content/uploads/documents/Aging_with_Dignity_A_Blueprint_for_Serving_NYC_Growing_Senior_Population.pdf>. [↑](#footnote-ref-16)
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52. 29 U.S.C.A. §§ 623. [↑](#footnote-ref-52)
53. N.Y. Exec. Law § 296(1)(a). [↑](#footnote-ref-53)
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