

## MDS Alert

### Reader Question: Be Wary of Targeted Job Advertisements

**Question:** Can we utilize the targeted marketing tools on social media sites to limit our job posting to certain demographics? For example, we just finished training a new MDS nurse and then she went out on maternity leave. Is it possible to limit our job advertisement audience to people who are older than child-bearing age?

New Hampshire Subscriber

**Answer:** No. Although it may be frustrating, from an employer perspective, to train an employee and then immediately need to train a temporary replacement, you cannot limit your pool of candidates without violating the Age Discrimination in Employment Act (ADEA).

The U.S. Equal Employment Opportunity Commission recently released determinations noting that several companies violated the ADEA by using Facebook's targeted marketing tools to show the ad only to people of a certain demographic. The EEOC says that these companies were "advertising on a social media platform and limited the audience for their advertisement to younger applicants." Although the rulings were made in July, they were not made public until September, due to a separate class-action lawsuit.

Facebook is attempting to change its targeted marketing to protect civil rights, saying: "If you are in or want to reach people in the U.S. with ads that offer housing, employment or credit opportunities, you must now select the corresponding Special Ad Category in Ads Manager or your ad will not be able to run. These ads will not allow targeting by age, gender, ZIP code, multicultural affinity, or any detailed options describing or appearing to relate to protected characteristics."

What you're describing is not legal, and the biggest social media companies are also taking steps to make it difficult to limit the advertising of an employment opportunity to particular demographics.