

U.S. DEPARTMENT OF LABOR
Employment Standards Administration
Washington, D. C. 20210

June 24, 1971

ADEA 302.1

This is in further reference to your letter of April 16, 1971, concerning a complaint by _____ under the Age Discrimination in Employment Act of 1967. We regret the delay in responding to your inquiry.

You state that _____, who is 53 years old and employed by _____, is subject to a company policy that requires all bus drivers over 50 years old to have a physical examination including an electrocardiogram every year, while younger drivers need only have a physical examination every 2 years. _____ objects to this requirement and considers it a discriminatory practice under the Age Discrimination in Employment Act.

It is our opinion that where periodic physical examinations are required to assure that bus drivers such as _____ meet certain minimum physical standards, the requiring of more frequent examinations for older drivers is not unreasonable, provided that the employer's health standards are uniformly applied to persons of all ages. Based on the information given in your letter, therefore, we are not prepared to say that such a requirement is a violation of the Age Discrimination in Employment Act. Whether a similar requirement would be a violation of the Act in other circumstances, however, must necessarily be considered separately in each case and a decision would be based on a careful study of all pertinent facts involved. For example, where examinations required for older employees are at such frequent intervals as to be unreasonable considering the purpose of and need for physical examinations in relation to the particular occupation, we believe the practice would be discriminatory within the meaning of the Act.

If you have any further questions, please do not hesitate to let us know.

Sincerely,

/s/ Ben P. Robertson

Deputy Administrator
Wage & Hour Division