

## ■ Early Retirement Incentive Plans

Although the Older Workers Benefit Protection Act provides safe harbors for voluntary early retirement incentive plans, some employers fail to structure their plans to conform with the law.

For example, in *EEOC v. Orleans Central Advisory Board of School Directors*, a district court ruled that the school district discriminated against older teachers by treating them differently depending upon their age when they retired. The early retirement incentive plan expressly linked increasing age with decreasing benefits. The court agreed with the Commission that this plan was facially discriminatory and awarded two older teachers the same benefits that a person age 55 would have received (\$10,000 and \$5,000). The court set a later date for a hearing on the issue of liquidated damages.

Similarly, *EEOC v. Coatesville Area School District and Coatesville Area Teacher's Ass'n*, involved an early retirement incentive plan that offered teachers aged 53 to 60 cash payments which declined as the age of the individual increased. The plan offered no cash payments to individuals 61 and older.

Court finds school district violated the ADEA by decreasing early retirement incentives as age of teachers increased

The case was resolved by a settlement providing \$476,672 in back pay and interest to 71 teachers and four other school district employees. The settlement also enjoined the school district from limiting benefits under early retirement plans on the basis of age. The union agreed to notify the Pennsylvania State Education Association about the settlement and request that the Association inform its approximately 900 affiliated unions about the problems with such incentive plans.

See also *EEOC v. Averill Park Central School District* (nine teachers and administrative employees whose incentive benefits were reduced based on age received \$106,517).