

Findings of the ADA Title I Enforcement Project

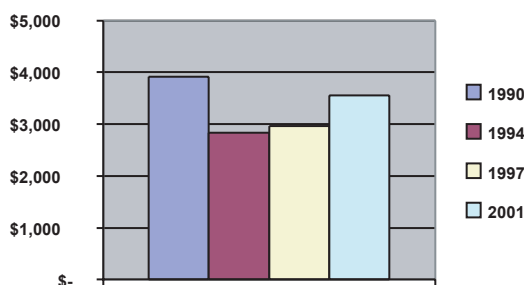
Kathryn Moss, Ph.D. Michael Ullman, M.A., Scott Burris, J.D., Matthew Johnsen, Ph.D., & Jeffrey Swanson, Ph.D.

Under Title I of the Americans With Disabilities Act (ADA), individuals who believe they have been subjected to disability-based discrimination in employment may file an administrative charge. The U.S. Equal Employment Opportunity Commission (EEOC) has responsibility for the Title I administrative charge process. This administrative process must be exhausted before an individual may file a lawsuit.

The ADA Title I Enforcement Project, based at the Cecil G. Sheps Center for Health Services Research at the University of North Carolina at Chapel Hill, has been studying the administrative charge process since 1995. It is presently funded by the National Institute on Disability and Rehabilitation Research and the National Institute of Mental Health.

Congress has never funded the EEOC with sufficient resources for it to thoroughly investigate each discrimination complaint. As a consequence, the agency has struggled to process more cases than it could properly handle. Passage of the ADA has only made the problem worse. With the enactment of the ADA, the EEOC experienced a 53 percent increase in yearly charge receipts: from 59,426 in 1990 to a peak of 91,189 in 1994. During this same time period, the EEOC yearly budget rose less than 9 percent, from \$238 million to \$258 million per year (1999 dollars). Charge receipt levels have declined somewhat in the past few years, but still hover around 80,000 per year. Budget levels increased by 15 percent in 1999 and by 8 percent in 2001, but the budget is still extremely inadequate to keep up with the increased workload that the EEOC has experienced.

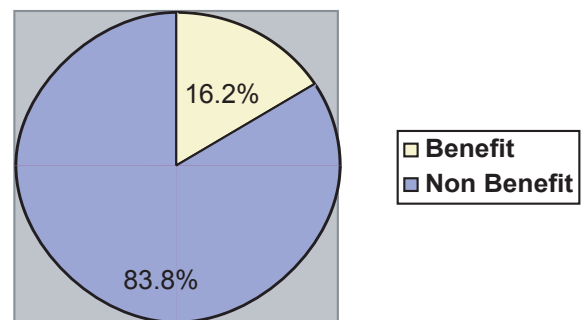
Budget per Charge Receipt*



*Budget allocations for 1990, 1994, and 1997 divided by the number of charges filed each year as well as the estimated allocation for 2001 divided by the number of charges estimated to be filed in 2001.

The EEOC took decisive action in the mid-1990s to reform its charge processing procedures through triage and mediation. As a result, it has made commendable progress in many areas. It has reduced the median length of time taken to process ADA charges (from 445 days in 1994 to 128 days in 2000), decreased the inventory of ADA charges awaiting resolution (from over 23,000 in 1995 to less than 7,000 in 2000), increased its rate of "reasonable cause" determinations (from 1.5% in 1995 to 11% in 2000), and increased the use of mediation (3,277 mediations of ADA cases between January 1, 1999 and September 30, 2000). Of all mediations, 62.2% (n=2,039) resulted in beneficial outcomes for claimants.

Only a small percentage of charges bring benefits to the people who file them. Between July 26, 1992 (the effective date of Title I) and September 30, 2000, only 16.2% of all ADA complaints resulted in benefits to claimants.



It is impossible to know what the "correct" rate of benefits should be, but the data suggest that the EEOC's system of triaging charges results in a substantial number of errors in identifying valid cases of discrimination. Under the agency's current system of case triage, the Priority Charge Handling Procedures (PCHP), each person bringing a case is interviewed initially by an EEOC staff member. On the basis of that intake interview, the staff member assigns a priority categorization based on the information the person provides during the interview and the claimant's credibility. "A" is the highest priority categorization, "B" the middle, and "C" the lowest. That initial categorization effectively determines the extent to

which the claim will be investigated. After categorization, the vast majority of cases receive minimal investigative attention and outcomes that favor employers, so unless the complaining party's initial presentation is a valid indicator of the merits of the case, the system cannot possibly be accurate. *Validating the accuracy of the system should be a high EEOC priority.*

Charge Resolutions by Prioritization as of September 30, 2000

Category	Closed Cases	Overall Benefit Rate %
A	20,793	22.8
B	69,239	12.7
C	30,428	1.8
TOTAL	120,467	11.7*

**This number reflects cases categorized and closed by the EEOC under the PCHP, which only began to be implemented in 1995.*

The data turned up other indicators of inaccuracy. Categorization and outcome rates differ enormously from office to office, far more than the likely variance in the distribution of meritorious cases. Since the beginning of the PCHP through September 30, 2000, rates of "A" categorization ranged from 4.9% to 36.6% among EEOC offices. During the time period of July 26, 1992 through September 30, 2000, benefit rates ranged from 6.8% to 18.9%.

To a lesser extent, categorization and outcomes vary by type of disability. Among the charges that had been closed as of September 30, 2000, rates of "A" categorization ranged from 12% to 54% among different disability groupings. During the time period of July 26, 1992 through September 30, 2000, benefits rates ranged from 9% to 17%.

The EEOC contracts with state and local Fair Employment Practice Agencies (FEPAs) to help it process charges. Outcomes of ADA charges also depend on whether an EEOC office or FEPA

investigates the charge. Individuals whose charges were investigated by a FEPA were considerably more likely to receive a benefit from their charge than individuals whose charges were investigated by an EEOC office.

All ADA Charges Filed and Closed As Of September 30, 2000

	Total Cases	Beneficial Outcomes	% Beneficial Outcome
EEOC	149,123	18,427	12.4
FEPA	84,346	19,385	23.0

Although individuals whose charges were investigated by a FEPA were more likely to receive a beneficial outcome from their charge, they received considerably lower monetary awards than did individuals whose charges were investigated by the EEOC.

All ADA Charges Filed and Closed As Of September 30, 2000

	Mean Actual Monetary Benefit	Median Actual Monetary Benefit
EEOC	\$19,538	\$6,000
FEPA	\$8,743	\$2,500

This Findings Brief focuses on the ADA employment discrimination administrative charge system. Congress requires individuals to file complaints with the EEOC before going to court. Complainants expect their cases to be investigated, but for most it is just a place for their case to grow stale.

Congress passed the ADA with grand promises about the employment of people with disabilities. The findings indicate that the EEOC cannot keep those promises without the resources to reasonably investigate every charge that is not obviously groundless.

For more information contact:

Kathryn Moss, Ph.D.,
 Cecil G. Sheps Center for Health Services Research
 725 Airport Road, CB 7590
 Chapel Hill, NC 27599
 919/ 966-5011
 kathryn_moss@unc.edu

