



The ADA: Understanding Responsibilities in the Workplace.

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The Laws EEOC Enforces.

Title VII of the Civil Rights Act of 1964

Equal Pay Act of 1963

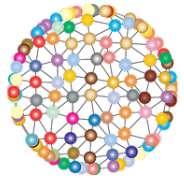
Age Discrimination in Employment Act of 1967

Americans with Disabilities Act of 1990 amended 2008

Genetic Information Nondiscrimination Act of 2008

[Laws & Guidance | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](https://www.eeoc.gov)





In 2022, what percentage of cases filed with EEOC included an ADA claim?

- A) 12%**
- B) 27%**
- C) 34%**
- D) 51%**

[Enforcement and Litigation Statistics | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](https://www.eeoc.gov/enforcement-and-litigation-statistics)





What state leads with most filed ADA charges?



Fiscal Year
2021

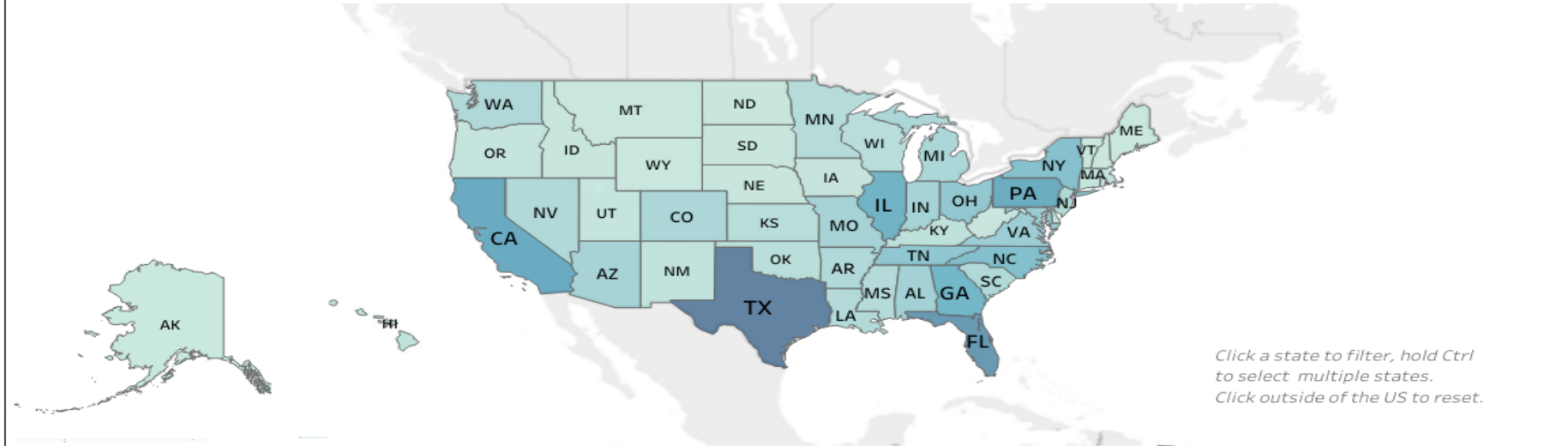
Display:
EEOC Charge Receipts by State

Region
All

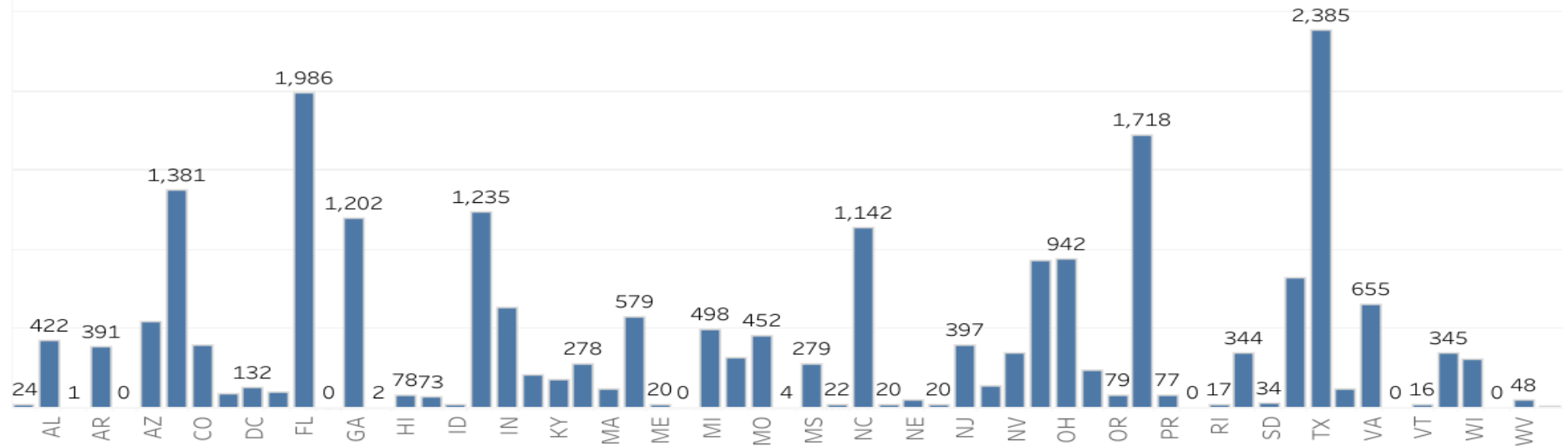
Discrimination Type*

- Age
- Color
- Disability
- Equal Pay Act
- GINA
- National Origin
- Race
- Religion
- Retaliation (All Statutes)
- Sex
- Retaliation (TVII)

EEOC Charge Receipts by State FY 2021



EEOC State Receipts by Discrimination Type Disability FY 2021



*Charges that allege multiple discrimination types are included with each applicable discrimination type.

**Starting with FY 2018 sexual harassment charge figures, EEOC enhanced data storage and processing techniques and as a result some charge figures prior to FY 2018 may differ from previous published totals.

Last Data Refresh: 7/12/2023 3:04:30 AM

Title I of the ADA prohibits discrimination on the basis of:

- **Actual disability**
- **Record of disability**
- **Perceived disability**
- **Association**



Applicable for any employment decision that may occur in the employment process....Failure to Hire, Disparate Treatment, Policies/Practices, Failure to Accommodate, and Retaliation. And includes mental and physical impairments.

Discrimination

1. Individual qualifies under the ADA (or any other protected status).
2. They are subjected to an adverse employment action. (e.g. failure to hire, discipline, denial of benefits, discharge, etc.).
3. Someone not disabled but otherwise similarly situated was treated more favorably.
4. There is no legitimate, non-discriminatory reason for the difference in treatment.



Hiring





Can a potential employer ask an applicant about a disability during an interview?



Inquiries at each stage of employment.

- **Pre-Offer/Pre-Employment:**

An employer generally may not ask an applicant whether they need a reasonable accommodation for the job, except when the employer knows that an applicant has a disability.**

- **Post-Offer/Pre-Employment:**

At this stage the employer may make medical inquiries or require individuals to take medical exams as long as the same inquiries or exams are required of every individual in the same job category.

- **Post-Offer/Post-Employment:**

At this stage medical exams and inquiries are allowed only if they are job related and consistent with business necessity.

As an Employee





Which of the following would be considered a category of a reasonable accommodation?

- A) A modification of an application process**
- B) Adjustments to essential functions of a position**
- C) Changes to policies/practices**
- D) All of the above**





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- B) Adjustments to essential functions of a position**
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- D) **All of the above****



What is a Reasonable Accommodation?

A change in the workplace or in the way things are customarily done to assist an individual with a disability in the employment process.

Accommodations are:

- for the application process
- to enable someone to perform the essential functions of a job
- to enable an employee to enjoy equal benefits and privileges of employment



Reasonable Accommodations continued...

Reasonable accommodations must be provided to qualified employees regardless of whether they work part-time, full-time, or probationary.

An accommodation must be effective in meeting the needs of the individual.

Generally, the individual with a disability must inform the employer that an accommodation is needed.

- Plain language (written or verbal/informal)
- Does not need to specifically mention "reasonable accommodation."
- Can be made by a third party.

Types of Accommodations

- Part-time or modified work schedules
- Reassignment to vacant position
- Leave of absence (beyond FMLA)
- Modification of equipment, devices or examinations
- Accessibility to work and off-site events
- Application assistance
- Readers or interpreters
- Exceptions to policies

*not an exhaustive list of accommodations.....



Reasonable accommodations do not require...

Removing essential job functions.

Diluting uniformly enforced productivity standards.

Excusing or forgiving past misconduct or poor performance.

Promotion.

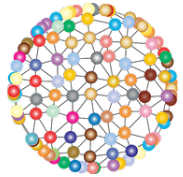
Bumping an employee from a job.

Monitoring medications.

Changing supervisors.

Creating another position or job.

Do not extend to family members.*



Can an employer ask for medical documentation when an employee requests an accommodation?



To ask or not to ask?

The employer may require only the documentation that is needed to establish that a person has an ADA related disability, and that the disability necessitates a reasonable accommodation.

- Records should only relate to the condition to be accommodated.
- Questions only related to the condition to be accommodated.
- Shouldn't fish or ask for more than is required to make accommodation determination.
- Employee has the right to a quick process.*



Can an employer discipline an employee who has a known disability?

[Disability Discrimination and Employment Decisions | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](https://www.eeoc.gov)



Policies





A Medical Center in Louisiana to Pay \$450,000 to Settle EEOC Disability Discrimination Lawsuit

According to the EEOC's lawsuit, the Medical Center required employees who exceeded a fixed leave-and-light-duty cap to be fully fit for duty (that is, have no restrictions), regardless of whether those employees could perform the essential functions of their jobs with or without reasonable accommodations. The company fired employees who exceeded the cap, rather than engaging with them in a meaningful interactive process about reasonable accommodations, the lawsuit said.

Undue hardship and essential functions.

Essential functions-

A duty or responsibility that is fundamental to the job — a critical, or basic component of that job.

Do not have to be removed to accommodate an individual.

Undue hardship-

An action requiring significant difficulty or expense,” when considering various factors, such as the nature and cost of the accommodation, the employer’s financial resources, the size of its workforce, and the impact of the accommodation on its operations.



The median cost of a reasonable accommodation is?

- A) \$5,000**
- B) \$10,000**
- C) \$300**
- D) \$1,000**





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- B) \$10,000
- C) **\$300**
- D) \$1,000





Jury Awards Over \$125 Million in EEOC Disability Discrimination Case Against Major Retailer

The employer made a change to an employee's longstanding work schedule, which caused the employee a significant difficulty. The employee, who has Down Syndrome, requested an adjustment to her schedule (60-90 minutes) and to be returned to her previous schedule. The retailer failed to consider the accommodation and instead fired her. She was a long-term employee with a good work history with the retailer. Additionally, the retailer later denied her request to be rehired, which was seen as retaliation.



U.S. Equal Employment Opportunity Commission - Houston District Office



Thank
You

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