

Employer Characteristics and Reasonable Accommodation Discrimination Against People with Disabilities Under the ADA

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This article describes findings from a causal comparative study of the characteristics of employers against whom allegations of discrimination in the provision of reasonable accommodations were filed with the U.S. Equal Employment Opportunity Commission (EEOC). People with disabilities filed these allegations under Title I of the Americans with Disabilities Act (ADA) between 1992 and 2005. Employer characteristics derived from 65,624 closed reasonable accommodation allegations were compared to and contrasted with 213,583 closed allegations aggregated from five other prevalent forms of discrimination including discharge, constructive discharge, hiring, disability harassment and intimidation, and terms and conditions of employment. Tests of proportion were used to examine comparisons of employer characteristics along a variety of factors including size of workforce, location, and industrial classification. As compared to non-reasonable accommodation allegations, reasonable accommodation allegations were more likely to be filed against employers (1) with 501 or more employees and less likely to be filed against employers with 15-100 employees; (2) in the Midwest, West, or Northeast U.S. Census tract regions; and (3) in industries including manufacturing, public administration, educational services, transportation and warehousing, information, and utilities. Additional research is needed to specify the mechanisms by which different employer characteristics influence patterns in allegations of discrimination pertaining to reasonable accommodation, and employer outreach activities regarding ADA responsibilities must be developed with the aforementioned characteristics in mind.

Introduction

Information presented in this study addresses differences in employer characteristics in comparisons of allegations of discrimination in the provision of reasonable accommodations and allegations pertaining to other prevalent types of employment discrimination, specifically, discharge, constructive discharge, hiring, disability harassment and intimidation, and terms and conditions of employment. Allegations examined in the investigation were filed with the U.S. Equal Employment Opportunity Commission (EEOC) by people with disabilities against employers of different

size, location, and industrial type. Variations in the employer characteristics related to perceived discrimination regarding reasonable accommodation and other issues may reflect differing perceptions among employers regarding (1) the costs of accommodations (Hafen, 2006; Rioux, Crawford, & Anweiler, 2001; Unger, Campbell, & McMahon, 2005), (2) the presumed impact of accommodations on supervisor and co-worker relationships (Schur, Kruse, & Blanck, 2005), (3) the capabilities of people with disabilities to perform satisfactorily using accommodations (Blanck, 2004), and (4) union-management obligations under

collective bargaining agreements (Schur et al., 2005; Weber, 2007).

Multiple arguments underscore the need to focus on organizational characteristics affecting the provision of reasonable accommodation. First and foremost, as many as 50 million American workers with disabilities (Head & Baker, 2005) are potentially affected by organizational willingness to provide accommodations as most discrimination allegations pertain to issues of job retention (McMahon, Shaw, West, & Waid-Ebbs, 2005), and reasonable accommodation is a primary means for assuring continuing access to employment and its opportunities. Second, perceived discrimination regarding reasonable accommodation is the second most frequent type of allegation of discrimination received by the EEOC (McMahon & Shaw, 2005) in cross-disability groups and the most frequent allegation of discrimination by adults with select disabilities such as multiple sclerosis (Rumrill, Roessler, McMahon, & Fitzgerald, 2005). The high frequency of perceived discrimination related to reasonable accommodation is reported in other research, as well (O'Hara, 2004), and the most fruitful approach for understanding the origins of such allegations involves what O'Hara referred to as the "full model," which requires examination of both person and employer characteristics. That is, aspects of both the supply and demand sides of the employment equation.

In this particular study, the focus is on employer or demand-side characteristics. Past research has indicated that considerations such as size of employer and type of industry have a bearing on the provision of reasonable accommodations. Quoting from a number of studies in their review of the literature, Hernandez, Keys, and Balcazar (2000) stated that managers in larger organizations had more positive attitudes toward the employment provisions of Title I of the Americans with Disabilities Act (ADA) as opposed to those in smaller organizations. Supporting this, Lowman, West, and McMahon (2005) found that individuals with cerebral palsy filed more allegations of discrimination against smaller firms than against larger firms. Type of industry is a factor in some cases, as well. For example, individuals with spinal cord injuries were more likely to file allegations of discrimination if they worked in the service industry or in public administration (McMahon, et al., 2005). People with cerebral palsy were more likely to file allegations of discrimination against employers in the retail and service industries (Lowman, et al., 2005).

Many explanations exist for the reticence among employers to accommodate workers with disabilities and, consequently, for the frequency of claims related to discrimination in this regard. For Putnam (2005) and Weber (2007), resistance to on-the-job accommodation is a function and manifestation of the negative attitudes toward disability and people with disabilities in

our society. Recent research supports this point of view in that employers are more likely to refuse to interview applicants when their letters of application mention the existence of disability. Pearson and colleagues (Pearson et al., 2003) found that employers solicited a higher percentage of applicants for interviews when those same letters did not mention the presence of disability. Bricout and Bentley (2000) reported that employers provided lower ratings of applicants, all else being equal, when their job histories made reference to the presence of a disability.

Some employers stress an economic argument as their explanation for resistance to accommodation. In this perspective, accommodations are viewed as excessively expensive, and the question is raised as to why that expense should fall directly on employers (Rioux, et al., 2001; Waterstone, 2005). Taking that argument one step further, Waterstone referred to reasonable accommodation as a mandate under Title I of the ADA more akin to affirmative action than protection against discrimination. Accommodations may even be seen as disturbing the equilibrium of the workplace as emphasized in the equity theory invoked by some employers. The equity theory suggests that accommodations are perceived both as individualized treatment in the workplace and as necessitating additional resources. These additional resources believed to result in a competitive advantage with respect to the total workforce, thereby causing a decrease in morale among workers who have not received such accommodations (Schur, Kruse, & Blanck, 2005).

Unfortunately, the previous arguments are premised on an outmoded view of disability referred to as the medical model (Smart & Smart, 2006). In this view, disability is not only seen as a problem residing within the person but also as a condition that by definition results in a person being less capable. Consequently, the person should leave the workforce and seek rehabilitation services. Cook and Burke (2002) recommended a "new paradigm of thinking" in which the interaction between people with disabilities and the workplace is stressed. In this new paradigm, a transactional position is emphasized in which the environment has as much obligation to change as does the person (O'Day, Schartz, & Blanck, 2002; O'Hara, 2004). Reasonable accommodation is the way in which the environment can respond to the individual's needs, thereby benefiting both employer and employee (Batavia & Schriener, 2001). The employer retains a trained and loyal worker; the employee with a disability retains his or her employment.

Retention of trained workers is extremely important given the projected labor shortage on the heels of the retirement of the "Baby Boom" generation (Schramm, 2006). Moreover, retention of employment for people with disabilities is vital to their economic and psychological health (Johnson, et al., 2004). Clearly, it is im-

portant to understand characteristics of employers that may affect the provision of reasonable accommodations and the potential for accommodations to increase the probability of job retention and equal employment opportunity.

To clarify further the extent to which employer characteristics influence discrimination in the provision of reasonable accommodations, this investigation utilized the EEOC Integrated Mission System (IMS) database of formal allegations of discrimination filed by people with disabilities. Research questions addressed the difference in the proportion of reasonable accommodation versus non-accommodation allegations that can be attributed to the size of the employer, the geographic region of the employer, and the industrial classification of the employer.

Methods

Under Title I of the ADA, the United States EEOC receives allegations of discrimination when individuals complain that employment-related actions and/or decisions are based on the presence of the person's disability.

The intent of this study was to determine how allegations of discrimination with regard to reasonable accommodation ($N = 65,624$) are different from allegations of other commonplace discriminatory issues ($N = 213,583$) with respect to the characteristics of employers against whom allegations were filed between 1992 and 2005. The allegations comprising the comparison group included the five primary or most frequently occurring issues representing 61% of all allegations in the EEOC's IMS database. Specifically, these five primary issues are: discharge, constructive discharge, hiring, disability harassment and intimidation, and terms and conditions of employment. Although not among the most prevalent issues, intimidation is included because its definition is similar to that of harassment, and constructive discharge is included because of its close connection to discharge. The EEOC's definitions of these issues and the frequency of allegations for each are presented in Table 1.

Table 1. Target and Comparison Issues and Their Definitions

Target Group	N	Definition
Reasonable	65,624	Failure to provide reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability
Comparison Group		
Discharge	119,039	Involuntary termination of employment statuses on a permanent basis
Disability Harassment/Intimidation	33,654	Bothering, tormenting, troubling, ridiculing, or coercing a person because of disability. For example: (1) making, allowing, or condoning the use of jokes, epithets or graffiti; (2) application of different or harsher standards of performance or constant or excessive supervisions; (3) the assignment to more difficult, unpleasant, menial or hazardous jobs; (4) threats or verbal abuse; or (5) application of stricter disciplinary measures such as verbal warning, written reprimands, impositions or fines or temporary suspensions
Terms/Conditions of Employment	32,494	Denial or inequitable application of rules relating to general working conditions or the job environment and employment privileges which cannot be reduced to monetary value. Examples include: (1) assignment to unpleasant work stations or failure to provide adequate tools or supplies; (2) inequities in shift assignments or vacation preferences; or (3) restriction as to mode of dress or appearance
Hiring	19,527	Failure or refusal by an employer to engage a person as an employee
Constructive Discharge	8,869	Employee is forced to quit or resign because of the employer's discriminatory restrictions, constraints, or intolerable working conditions

Note: Total N for Comparison Group = 213,583.

Data Collection: The EEOC Investigation Process

Data for this study were collected by EEOC investigators in the fifty states and the District of Columbia, all U.S. territories, and all U.S. businesses operating in foreign countries. The EEOC issued regulations to enforce the employment provisions of the ADA on July 26, 1991. The provisions originally took effect on July 26, 1992, and they covered employers with 25 or more employees. On July 26, 1994, the employer size threshold dropped to include employers with 15 or more employees. Most allegations have been filed against employers in the private sector, all with a workforce greater than or equal to 15 employees.

Filing a charge of employment discrimination under the ADA entails following procedures outlined by the EEOC, which is designated by statute as the enforcement agency for Title I. In addition, an individual, organization, or agency may file a charge on behalf of another person. A charge may be filed by mail or in person at the nearest EEOC office.

Filing a complaint involves sharing information about the charging party's name, address, and telephone number; the name, address, and telephone number of the employer that is alleged to have discriminated; and the number of employees who work there, if known. Other required information includes a brief description of the alleged violation or event that caused the charging party to believe his or her rights were violated and the date(s) of the alleged violation. Enforcement of Title I by the EEOC is strictly a complaint-driven process. The EEOC cannot audit or otherwise seek out or pursue discriminatory activity in the absence of a complaint.

Before a lawsuit can be filed in civil court, it is required that charges be filed with the EEOC. A charge must be filed with the EEOC within 180 days from the date of the alleged violation in order to protect the charging party's rights. This 180-day filing deadline is extended to 300 days if the charge is also covered by a state or local anti-discrimination law. Once an allegation is received, the EEOC notifies the employer that a charge has been filed.

There are several different ways in which the charges can be initially handled. A charge may be assigned for priority investigation if the initial facts appear to indicate a violation of law. If the evidence does not clearly indicate that a violation of law occurred, the charge may be assigned for further investigation. The EEOC can seek to settle a charge at any stage of the investigation if the charging party and the employer express an interest in doing so. If settlement efforts are not successful, the investigation continues. In the investigation of a charge, the EEOC may make written requests for information, interview people, review documents, and, as needed, visit the facility where the alleged dis-

crimination occurred. When the investigation is complete, the EEOC discusses the evidence with the charging party and/or employer, as appropriate.

The charge may be selected for the EEOC's mediation program if both the charging party and the employer express an interest in this option. Mediation is offered as an alternative to a lengthy investigation. Participation in a mediation program is confidential, voluntary, and conditioned upon consent from both charging party and employer. If mediation is unsuccessful, the charge is returned for additional investigation. A charge may be dismissed at any point if, in the EEOC's judgment, further investigation does not establish a violation of the law. A charge may be dismissed at the time it is filed if an initial in-depth interview does not produce evidence to support the allegation. When a charge is dismissed, a notice is issued in accordance with the law that gives the charging party 90 days within which to file a lawsuit.

The EEOC also has an established protocol for resolving cases. If the evidence obtained in an investigation does not establish that discrimination occurred, this will be explained to the charging party. A required notice is then issued, closing the case and giving the charging party 90 days to file a lawsuit. If the evidence establishes that the alleged discrimination occurred, the employer and the charging party will be informed of this in a letter of determination that explains the finding. The EEOC will then attempt conciliation with the employer to develop a remedy for discrimination. If the case is successfully conciliated, mediated or settled, neither the EEOC nor the charging party may go to court unless the agreement is not honored. If the EEOC is unable to successfully conciliate the case, the EEOC will decide whether to bring suit in Federal Court. If the EEOC decides not to sue, it will issue a notice closing the case and giving the charging party 90 days in which to file a lawsuit on his or her own behalf.

The EEOC may recommend one or more remedies when employment discrimination is caused by intentional acts or by practices that have a discriminatory effect. These remedies may include: (a) back pay, (b) hiring, (c) promotion, (d) re-instatement, (e) front pay, (f) reasonable accommodation, (g) other corrective actions that will make the individual "whole," (h) payment of attorney fees, (i) expert witness fees, and (j) court costs. Compensatory and punitive damages may also be available where intentional discrimination is found. Compensatory damages are intended to compensate for actual monetary losses, for future monetary losses, and for mental anguish and inconvenience. Punitive damages are intended as punishment if an employer acted with malice or reckless indifference. In cases of reasonable accommodation under the ADA, compensatory damages may not be awarded to the charging party if an employer can demonstrate that "good faith" efforts were made to

provide reasonable accommodation. The employer may be required to take corrective or preventive actions to (a) cure the source of the identified discrimination, (b) minimize the chance of its recurrence, and/or (c) discontinue the specific discriminatory practices involved in the case.

Design and Procedures

This study utilized the EEOC IMS dataset described in the introduction to this special issue and detailed elsewhere (McMahon, 2006). The current research examined two levels of the independent grouping variable of allegations: reasonable accommodation allegations and non-accommodation allegations. The two groups were compared across three dependent variables: (1) employer size (15-100 employees, 101 to 200 employees, 201 to 500 employees, and 501 or more employees), (2) employer region (South, Midwest, West, Northeast, U.S. Territories, and Foreign), (3) Employer industry (20 individual industrial labels detailed by the North American Industry Classification System [NAICS]).

The overarching purpose of this study was to differentiate ADA Title I allegations related to reasonable accommodation from those allegations involving other commonly asserted discriminatory actions (i.e., discharge; constructive discharge; hiring; harassment/intimidation; and terms and conditions of employment). In this study, those two groups of allegations (i.e., reasonable accommodation and non-accommodation) were compared based upon the characteristics of the employers against whom ADA Title I allegations were filed with the EEOC between 1992 and 2005. The characteristics that were used to differentiate the two groups of allegations were employer size, employer region, and employer industry.

The research questions follow:

- Is there a difference in the proportion of reasonable accommodation vs. non-accommodation allegations that can be attributed to the size of the employer?

- Is there a difference in the proportion of reasonable accommodation vs. non-accommodation allegations that can be attributed to the geographic region of the employer?
- Is there a difference in the proportion of reasonable accommodation vs. non-accommodation allegations that can be attributed to the industrial classification of the employer?

Data were analyzed to answer the stated research questions in two primary ways. First, descriptive statistics were used to detail the characteristics of employers against whom reasonable accommodation and non-accommodation allegations were filed. Second, tests of proportion were conducted to compare the target group (i.e., reasonable accommodation allegations) with the comparison group (i.e., high-frequency non-accommodation allegations) on the three dependent variables (i.e., employer size, employer region, and employer industry) using MINITAB. To compensate for the effects of multiple testing, alpha levels were set conservatively at $\leq .01$. These analyses yielded *Z* scores and 95% confidence intervals.

Results

As can be seen in Table 2, reasonable accommodation allegations were most frequently filed against employers who have 501 or more employees. In descending order, the next most frequently represented employers in the set of reasonable accommodation allegations were employers with 15-100 employees, 101-200 employees, and 201-500 employees. The same pattern held for non-accommodation allegations. However, the test of sample proportions revealed that, in comparison to the non-accommodation group, reasonable accommodation allegations were underrepresented against employers with 15-100 employees [$z = -33.77, p < .001$], employers with 101 to 200 employees [$z = -3.31, p < .001$], but were overrepresented for employers with 201 to 500 employees [$z = 4.44, p < .001$] and 501 or more employees [$z = 36.13, p < .001$].

Table 2. Number of Allegations by Employer Size

Number of Employees	Reasonable Accommodation (N = 62,777)		Non-Accommodation (N = 201,493)	
	<i>n</i>	%	<i>n</i>	%
15-100	17,928	28.6	72,914	36.2
101-200	7,322	11.7	24,828	12.3
201-500	7,215	11.5	22,166	11.2
501 and Over	30,312	48.3	81,585	40.5

Table 3. Allegations by Employer Region

Employer Region	Reasonable Accommodation (N= 58,450)		Non-Accommodation (N= 188,089)	
	n	%	n	%
South	21,443	36.7	81,578	43.3
Midwest	18,129	31.0	52,340	27.9
West	11,700	20.0	32,621	17.3
Northeast	6,964	11.9	20,810	11.1
U.S. Territories	212	0.4	729	0.4
Foreign	2	0.0	11	0.0

With regard to employer region, Table 3 presents the frequencies and percentages for this categorically coded variable across the two allegation groupings. As can be seen in Table 3, reasonable accommodation allegations were most frequently filed against employers in the South, followed in descending order by employers in the Midwest, West, Northeast, U.S. Territories, and Foreign locations. Similarly, non-accommodation allegations were most often filed against employers in the South, followed in descending order by employers in the Midwest, West, Northeast, U.S. Territories, and Foreign locations. The test of sample proportions revealed that, in comparison to the non-accommodation group, reasonable accommodation allegations were over-represented against employers located in the Midwest [$z = 15.77, p < .001$], West [$z = 15.17, p < .001$] and Northeast [$z = 6.37, p < .001$], and underrepresented against employers in the South [$z = .26.14, p < .001$]. No difference existed for employers located in the U.S. Territories and in foreign locations.

Descriptive data for employer industrial categories across allegation groupings are presented in Table 4. When looking at employer industry, reasonable accommodation allegations were most frequently filed against employers in manufacturing, followed in descending order by employers in: health care and social assistance; public administration; retail trades; educational services; transportation and warehousing; information; and finance and insurance. Likewise, non-accommodation allegations were most often filed against employers in manufacturing, followed in descending order by employers in: health care and social assistance; public administration; retail trades; educational services; transportation and warehousing; administrative and waste services; and finance and insurance.

The test of sample proportions revealed that, in comparison to the non-accommodation group, reasonable accommodation allegations were overrepresented against employers in: manufacturing [$z = 10.54, p < .001$]; public administration [$z = 16.22, p < .001$]; educational services [$z = 10.28, p < .001$]; transportation

and warehousing [$z = 5.38, p < .001$]; information [$z = 7.34, p < .001$]; and utilities [$z = 4.52, p < .001$].

Reasonable accommodation allegations were under-represented against employers in: health care and social assistance [$z = -2.56, p < .01$]; retail trade [$z = -6.37, p < .001$]; finance and insurance [$z = -3.35, p < .001$]; administrative and waste services [$z = -8.46, p < .001$]; other services (except public administration [$z = -8.54, p < .001$]); professional, scientific, and technical services [$z = -10.52, p < .001$]; construction [$z = -7.01, p < .001$]; accommodation and food services [$z = 14.74, p < .001$]; real estate and rental and leasing [$z = -6.37, p < .001$]; and agriculture, forestry, fishing, and hunting [$z = -3.81, p < .001$].

Discussion

Findings from this study highlight considerable similarities between patterns in reasonable accommodation allegations and patterns in non-accommodation allegations. Allegations of both types were leveled most frequently against the largest employers (those with 200 to 500 employees and those with more than 500 employees), and less so among smaller employers (those with between 15 to 100 employees and those with 101 to 200 employees). Both reasonable accommodation and non-accommodation allegations occurred most frequently in the South, followed by the Midwest, West, and Northeast. Finally, both types of allegations were more likely to appear in industries such as manufacturing, health care and social assistance, public administration, and retail trades. Although differences do exist in the proportions of employer characteristics represented in the two allegation groups, these findings demonstrate similarity with respect to variables such as employer size, location, and type. Having implications for the development and delivery of ADA interventions, either the largest or the smallest employers in the South and in industries such as manufacturing and health care are frequent respondents in cases of employment discrimination pertaining to accommodation and non-accommodation issues.

Table 4. Allegations by Employer Industry

Industry	Reasonable Accommodation (N= 61,249)		Non-Accommodation (N= 197,833)	
	n	%	n	%
Manufacturing	11,441	18.7	33,463	16.9
Health Care and Social Assistance	6,834	11.2	22,991	11.6
Public Administration	6,630	10.8	17,026	8.6
Retail Trade	4,588	7.5	16,497	8.3
Educational Services	3,819	6.2	10,181	5.1
Transportation and Warehousing	3,280	5.4	9,570	4.8
Information	2,823	4.6	7,793	3.9
Finance and Insurance	2,475	4.0	8,703	4.4
Administrative and Waste Services	2,246	3.7	8,809	4.5
Other Services (Except Public Administration)	1,896	3.1	7,569	3.8
Professional, Scientific, and Technical Services	1,847	3.0	7,723	3.9
Wholesale Trade	1,117	1.8	3,829	1.9
Construction	984	1.6	4,039	2.0
Utilities	930	1.5	2,527	1.3
Accommodation and Food Services	899	1.5	4,667	2.4
Arts, Entertainment, and Recreation	426	0.7	1,395	0.7
Mining	425	0.7	1,506	0.8
Real Estate and Rental and Leasing	342	0.6	1,572	0.8
Agriculture, Forestry, Fishing, and Hunting	288	0.5	1,185	0.6
Management of Companies, and Enterprises	8	0.0	47	0.0

Proportional differences in the patterns of reasonable accommodation and non-accommodation allegations do exist, indicating that people with disabilities were more likely to file reasonable accommodation allegations of discrimination against larger employers than was the case for non-accommodation allegations. Non-accommodation allegations of discrimination were, conversely, more likely to be filed against smaller employers. In comparisons with non-accommodation allegations, allegations of discrimination in the provision of reasonable accommodations were more likely to occur in geographic regions other than the South (i.e., Midwest, West, and Northeast), whereas non-accommodation allegations were more likely to be filed in the South. Finally, reasonable accommodation allegations, when compared to non-accommodation allegations, were overrepresented in manufacturing, public administration, educational services, transportation and warehousing, and utilities to name a few.

Employer Size

Consistent with findings from a previous investigation comparing hiring allegations with non-hiring allegations (McMahon, et al., 2008), patterns in reason-

able accommodation and non-accommodation discrimination allegations filed between 1992 and 2005 typically pertained to either the largest or smallest employers. Compatible with O'Hara's (2004) survey findings with a different sample, more than 40 percent of all EEOC allegations were leveled against the nation's largest employers (48% of accommodation and 40.5% of non-accommodation allegations), even though those employers do not employ the largest segment of the workforce (United States Department of Labor, Bureau of Labor Statistics [US DOL BLS], 2007). These findings are somewhat surprising for several reasons. First, larger corporations are considered to be more familiar with requirements for reasonable accommodation and nondiscrimination than smaller businesses that do not have the advantage of human resource departments, legal counsel, and access to training on non-discrimination requirements under Section 504 of the Rehabilitation Act of 1973 and Title I of the ADA (Rubin & Roessler, 2008; US DOL BLS, 2007). Second, as Harcourt, Lam, and Harcourt (2005) speculated, larger corporations are more prone to take action for the sake of legitimacy and public relations rather than for simply economic mo-

tives. They place a high value on their reputation in the eyes of stockholders and the general public, suggesting that larger corporations would guard against negative public relations stemming from charges of employment discrimination.

On the other hand, findings regarding the relatively high proportion of accommodation and non-accommodation allegations occurring in smaller business establishments are not surprising. As previously noted, smaller companies neither have access to "in-house" human resource departments (Rubin & Roessler, 2008) nor prior experience administering large government contracts under Section 503 of the Rehabilitation Act. They may be more likely to respond to the perceived costs of accommodation as an economic threat to the organization and as a requirement that should not be solely their responsibility (Rioux, et al., 2001; Waterstone, 2005). It is, of course, less clear why moderately sized employers were less likely to experience charges of employment discrimination in terms of either reasonable accommodation or non-accommodation matters. Possibly, these employers are of a sufficient scale to have personnel and legal consultation and thus to have more knowledge about nondiscrimination requirements, while still maintaining more personal relationships with their workforce.

The preceding discussion pertaining to size of employer addressed similarities in the patterns inherent in the two types of allegations. Comparative results from the analysis of the reasonable accommodation and non-accommodation allegations yielded differences worthy of further discussion. Specifically, when comparing the two groups of allegations, reasonable accommodation allegations were proportionally more likely to be filed against employers with 501 or more employees and proportionally less likely to be filed against employers with 15 - 100 employees. Employees of larger organizations may potentially be better informed about their rights regarding reasonable accommodation and more inclined to assert those rights (Gutman, 2008). They may also be more likely to hold unionized jobs. Being union members, workers in larger corporations may have access to better information and support for pursuing job retention strategies such as reasonable accommodation (Gutman, 2008).

Employer Region

Although associated with proportionally fewer accommodation than non-accommodation allegations, the South was the geographic region with the highest incidence of both accommodation and non-accommodation allegations. Some (Shrey & Lacerte, 1997) have speculated that the greater presence of labor unions in other parts of the country is one explanation for the relatively higher level of EEOC complaints in the South. Unions provide both mediation and advocacy

support on behalf of employees with Title I related issues, which may, in the long run, result in fewer concerns reaching the level of a formal complaint filed with the EEOC (Dunn, 2001; Shrey & Lacerte, 1997). Again, the greater presence of unionized jobs may partially explain why employees are more aware of their employment rights under Title I of the ADA and are more inclined to assert those rights (Shrey & Lacerte, 1997). Consequently, differences in cultural expectations, workplace practices, and union presence should be considered in developing ADA Title I education and outreach efforts, and the regionally located Disability and Business and Technical Assistance Centers (DBTACs) funded by the National Institute on Disability and Rehabilitation Research are ideally situated to create programs with such considerations in mind (Rumrill, Hennessey, & Nissen, 2008).

Employer Industry

Discussions of differences among industry types regarding patterns of discrimination must be understood more in the context of industrial classifications than occupational classifications. Obviously, not all jobs in the manufacturing sector have to do with the physical activities involved in product development, assembly, and distribution. Allegations filed by employees in the accounting or sales divisions of manufacturing concerns would be classified as manufacturing, even though the employees' job functions were more compatible with positions found in retail trade or finance and insurance. The primary respondents in both types of allegations (49% of reasonable accommodation allegations and 46% of non-accommodation allegations) were employers in the following four areas: manufacturing, health care and social assistance, public administration, and retail trade. These findings point out the need not only for regional DBTAC centers to target these industries with ADA training and information but also for those centers to conduct research on the events and policies that precipitate and maintain conditions leading to discrimination allegations of an accommodation or non-accommodation nature. Dissemination of strategies to clarify and intervene in workplace practices that "create and reproduce inequality" (O'Hara, 2004, p. 195) would be a valuable activity for the DBTAC centers as well (Bellini & Rumrill, 1999). In this approach, the work setting is the primary target for remediation in promoting the employment and job retention of employees with disabilities, which is consistent with the understanding that both physical and attitudinal barriers stand in the way of success in the workplace for people with disabilities (Hernandez, et al., 2000). Researchers have labeled this contextual approach as the socio-technical perspective (O'Hara, 2004), the interaction model (O'Day, et al., 2002), or the "new paradigm of thinking" (Cook & Burke, 2002).

Although it is difficult to determine why reasonable accommodation allegations are overrepresented in some industries such as educational services and public administration, it is less difficult to speculate why such allegations occur more frequently in industries with high levels of physical activity such as manufacturing in which accommodations could require more significant and visible changes in equipment or assembly processes and job duties. Based on their review of the literature, Hernandez et al. (2000) concluded that employers resist making such accommodations due to the presumed high costs associated with the changes. Based on their analysis of the reactions of employers and co-workers, Schur and colleagues (Schur et al., 2005) elaborated further on reasons why salient and observable accommodations are less likely to occur. Again, employers are concerned about the cost factors. In addition, both employers and co-workers may view these accommodations as giving other workers a competitive edge by making their work duties less taxing and by adding resources that other workers cannot access.

Conclusion

As previously noted, results indicate that many similarities exist between patterns in reasonable accommodation and non-accommodation allegations of discrimination. The group of largest employers was more likely to be respondents for both types of allegations, followed by the group of smallest employers. Consistent with past research, allegations of both types of discrimination were more likely to occur in the South and in industries such as manufacturing, health care and social assistance, public administration, and retail trades. Therefore, regardless of the type of allegation, it would seem that certain sections of the United States (i.e., the South) and industries (i.e., manufacturing and health care and social assistance) should have a high priority for ADA information and training efforts regarding accommodation and non-accommodation issues. By the same token, the surprising finding of the greater proportion of reasonable accommodation allegations appearing for the largest employers underscores the need for training and technical assistance regarding reasonable accommodations for this group of employers. This training should be designed with consideration given to such issues as the role of labor unions and collective bargaining agreements, the cost and nature of the accommodations, and the availability of human resource personnel or legal counsel regarding ADA requirements and employment law.

One of the limitations of this study is the lack of focus on other salient variables such as demographic (e.g., gender, racial/ethnic status) and disability characteristics on the part of charging parties. Consequently additional research is needed to determine whether

variables related to the charging parties influence patterns in accommodation and non-accommodation allegations. For example, to what extent do women with disabilities in industries of different size, location, and nature encounter difficulties in either entering the job market or retaining employment once hired? Are individuals with different types of disabilities and chronic illnesses or individuals with visible or invisible disabilities more likely to allege discrimination in terms of accommodation or non-accommodation issues, and to what extent are their experiences related to employer characteristics such as employer size, location, and industry? p

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