

Good News! EEOC Charges Decline in Illinois.

Something remarkable is happening quietly and quickly. EEOC charges filed in Illinois and nationally are declining. Illinois saw 6,098 EEOC charges filed in 2011. That number has declined steadily since 2016 to a record [low](#) of 3,928 charges in Fiscal Year 2019.

Illinois is not an outlier. EEOC charges have materially [declined](#) at the national level as well. During Fiscal Years 2010, 2011, and 2012, EEOC charges averaged close to 100,000 per year. In Fiscal Year 2019, the charges have declined almost 28% to 72,675 per year.

One explanation for this development is the [tight](#) labor [market](#) and low unemployment rate. There is a strong correlation between high unemployment and the filing of discrimination charges. Similarly, when unemployment is low, employees feel less compelled to register their grievances with the EEOC. Instead, they move on to new employment elsewhere.

Illinois Employers Should Still be Concerned About Disability Charges

Illinois employers must still be vigilant about ADA charges both from a quantitative perspective and a qualitative perspective. Disability charges represent 32.7% of all the discrimination charges filed in Illinois and this is the highest percentage rate for these types of charges in the past 10 years.

By far the largest number of [charges](#) filed under the ADA nationwide in 2109 relate to the allegation that the employee was terminated because of their disability. 14,592 charges raised this issue. Close behind is the allegation made in 11,120 charges that an employer failed to accommodate an employer. A failure to accommodate charge causes nearly identical transaction costs as a discharge charge. Moreover, it sets the stage for a later retaliation charge. Accordingly, accommodating employees with disabilities must be an area of greater attention and focus for human resource professionals. The costs of making a mistake in this area are almost higher than a bad discharge decision.

A recent [article](#) in the WSJ by Lauren Weber entitled “Young Worker Seek Mental Health Accommodations, Employers Try to Keep Up” describes just how bedeviling the “new” ADA charges are. Employers are no longer only confronted with accommodating employees in wheel-chairs or employees who need physical accommodations. Rather, the modern trend is requests for accommodations from employees with challenging mental health issues like depression and anxiety. Changing the nature of how employees work is much harder than fixing physical barriers.

ADA issues are also thorny because they do not arise in isolation. Often times, employers are confronted with the unholy trifecta of an ADA charge, a worker’s compensation charge, and a request for FMLA leave either at the same time or in close proximity to one another.

Conclusion

EEOC charges are at record lows and so are [FMLA](#) charges. This is good news and Illinois employers should congratulate

themselves. Failure to accommodate charges under the ADA will continue to be a challenge for Illinois employers.

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