

Fact Sheet

Labor Market Discrimination against Older People with Disabilities

Christina Smith FitzPatrick
AARP Office of Policy Integration

Older people with disabilities have lower employment rates than those without disabilities.

- Only 35 percent of people ages 50 to 64 with disabilities were employed in 2012, compared with 78 percent of people without disabilities in that age group.¹

Older people with disabilities have lower earnings than people without disabilities.

- Among people ages 50 to 64 who worked full time for the full year in 2012, the median annual earnings for workers with disabilities was \$40,000, compared with \$50,000 for workers without disabilities.²
- About 20 percent of adults with disabilities ages 50 to 64 worked full time for the full year in 2012, compared with about 56 percent of people in that age group without disabilities.³

Discrimination may play a role in earnings differences between people with and without disabilities.

- Some of the earnings gap results from factors such as differences in education and type of job. However, even after controlling for these and other factors, including the potential effects of functional limitations on productivity, a substantial portion of the earnings difference remains unexplained. Researchers attribute some of the unexplained difference to discrimination.⁴

Laws protecting disabled workers are particularly important for older people.

- The prevalence of disability increases significantly with age: 20 percent of people between the ages of 60 and 64 report having a disability, compared with 6 percent of people between the ages of 18 and 39.⁵ Overall, almost 15 percent of people 18 and older reported a disability in 2012.⁶

Discrimination often has a major impact on older workers with disabilities, many of whom may also have to contend with age discrimination.

AARP[®]
Real Possibilities

**Public Policy
Institute**

Discrimination against people with disabilities is illegal at the federal level.

- The federal Americans with Disabilities Act (ADA), passed in 1990 and significantly strengthened in 2008, prohibits discrimination based on disability in all private and public (non-federal) employment. Employers must provide reasonable accommodations to employees or applicants with disabilities unless doing so would cause undue hardship.⁷
- The federal Rehabilitation Act of 1973 (RA) provides safeguards for federal workers and parallel protections for employees of most state and local governments and private federal contractors.

Every state prohibits discrimination against people with disabilities.

- Some states, such as California and New Jersey, have laws that may afford more expansive protections for workers with disabilities than those provided by federal law. They also may allow workers to seek relief in state courts, which in some instances are considered more sympathetic to workers' claims than federal courts.

Older workers are more likely than younger workers to file charges of disability discrimination.

- Workers and jobseekers alleging discrimination can file claims with the Equal Employment

Opportunity Commission (EEOC), the federal agency responsible for enforcing federal anti-discrimination laws. They also can file with state and local Fair Employment Practice Agencies (FEPAs).

- ADA charges filed with the EEOC and FEPAs disproportionately come from people ages 50 and older.⁸ Orthopedic disabilities are the most common type cited in discrimination claims by both older and younger filers. Older filers are more likely than younger filers to list heart and cardiovascular issues, diabetes, and cancer, while younger filers are more likely to cite depression. (See exhibit 1.)⁹
- Claimants also identify the context in which the discrimination occurred. Older and younger filers most often report that the discrimination occurred in the context of a discharge. Overall, little difference exists between older and younger claimants in the issues cited in their claims of disability discrimination. (See exhibit 2.)¹⁰

Acknowledgments

AARP is grateful to William Erickson and Sarah von Schrader of the Cornell University Employment and Disability Institute and Marjorie Baldwin of Arizona State University for their assistance with this fact sheet.

EXHIBIT 1

Most Common Disabilities Cited in Disability Discrimination Charges Filed at the Federal and State Levels, 1993-2010 Average (percent of ADA charges citing type of disability)

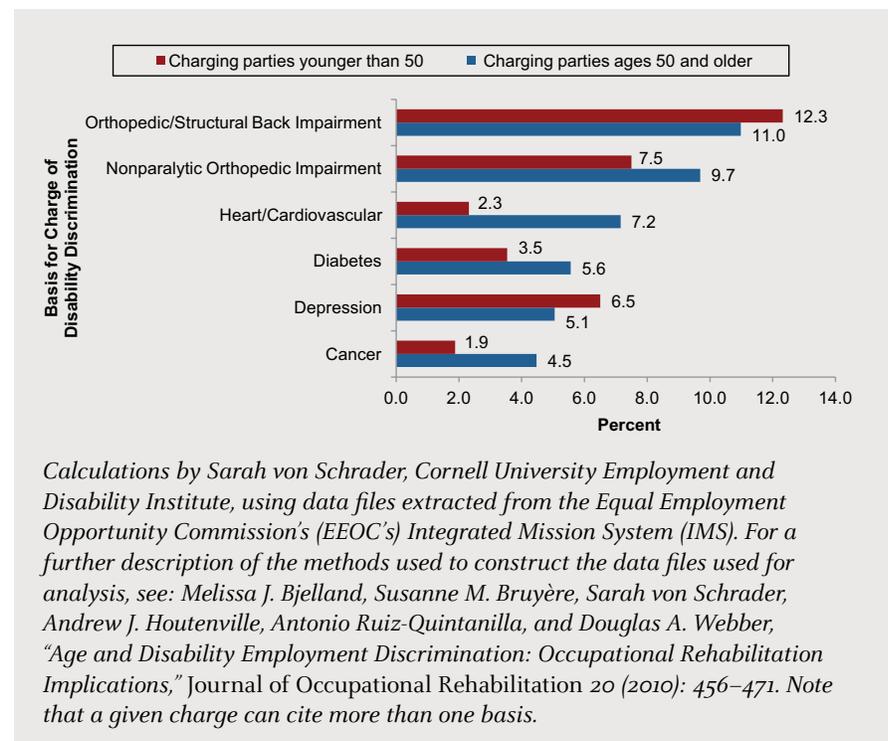
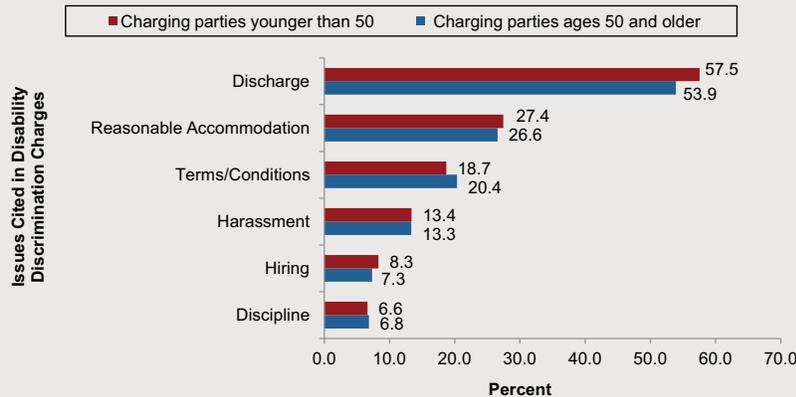


EXHIBIT 2

Most Common Issues Cited in Disability Discrimination Charges Filed at the Federal and State Levels, 1993-2010
 Average (percent of ADA charges citing issue)



Calculations by Sarah von Schrader, Cornell University Employment and Disability Institute, using data files extracted from the Equal Employment Opportunity Commission's (EEOC's) Integrated Mission System (IMS). For a further description of the methods used to construct the data files used for analysis, see: Melissa J. Bjelland, Susanne M. Bruyère, Sarah von Schrader, Andrew J. Houtenville, Antonio Ruiz-Quintanilla, and Douglas A. Webber, "Age and Disability Employment Discrimination: Occupational Rehabilitation Implications," *Journal of Occupational Rehabilitation* 20 (2010): 456-471. Note that a given charge can cite more than one issue.

- 1 See AARP Public Policy Institute, "Disability and Employment," Fact Sheet #307, for more details about the employment rates of people with and without disabilities, by gender.
- 2 *Ibid.*
- 3 *Ibid.*
- 4 For a review of the literature and current estimates of the wage gap proportion between people with and without disabilities that is potentially attributable to discrimination, see the following two publications: Marjorie L. Baldwin and Chung Choe, "Re-examining the Models Used to Estimate Disability-Related Wage Discrimination," *Applied Economics* Vol. 46, No. 12 (2014): 1393-1408. Marjorie L. Baldwin and Chung Choe, "Wage Discrimination against Workers with Sensory Disabilities," *Industrial Relations* Vol. 53, No. 1 (January 2014).
- 5 AARP Public Policy Institute analysis of data from the 2012 American Community Survey Public Use Microdata Sample.
- 6 See AARP Public Policy Institute, "Disability and Employment," Fact Sheet #307, for more details about the prevalence of disabilities by age, sex, and race/ethnicity. A person was defined as having a disability if he or she reported having

difficulty with any of the following: hearing (deaf or serious difficulty hearing), vision (blind or serious difficulty seeing, even when wearing glasses), cognitive ability (serious difficulty concentrating, remembering, or making decisions), mobility (serious difficulty walking or climbing stairs), self-care (difficulty dressing or bathing), and independent living (difficulty doing errands alone such as visiting a doctor's office or shopping).

- 7 For guidance from the Equal Employment Opportunity Commission about reasonable accommodation, see <http://www.eeoc.gov/policy/docs/accommodation.html>.
- 8 Melissa J. Bjelland, Susanne M. Bruyère, Sarah von Schrader, Andrew J. Houtenville, Antonio Ruiz-Quintanilla, and Douglas A. Webber, "Age and Disability Employment Discrimination: Occupational Rehabilitation Implications," *Journal of Occupational Rehabilitation* 20 (2010): 456-471.
- 9 Calculations by Sarah von Schrader, Cornell University Employment and Disability Institute, using data files extracted from the Equal Employment Opportunity Commission's Integrated Mission System.
- 10 *Ibid.*

Fact Sheet 318, December 2014

© AARP PUBLIC POLICY INSTITUTE
 601 E Street, NW
 Washington DC 20049

Follow us on Twitter @AARPolicy
 on facebook.com/AARPolicy
www.aarp.org/ppi

For more reports from the Public Policy Institute, visit <http://www.aarp.org/ppi/>.



Real Possibilities

Public Policy Institute