



Experience of Discrimination and the ADA

An ADA Knowledge Translation Center Research Brief

Sarah Parker Harris

Rob Gould

Department of Disability and Human Development

University of Illinois at Chicago

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What is the ADA?

The Americans with Disabilities Act (ADA) is a civil rights law that creates a legal framework for people with disabilities to address discrimination. Passed in 1990, the ADA represents bipartisan support for disability inclusion in all aspects of public life. Through the ADA, disability is a recognized source of discrimination, similar to “race, color, religion, sex, or national origin” within the Civil Rights Act of 1964. The ADA allows individuals with disabilities to challenge discrimination in the realms of employment, public services, and places of public use. The overarching goal of the ADA is to promote equal opportunity, full participation, independent living, and economic self-sufficiency for all people with disabilities.

ADA and Experiences of Discrimination

Developing a law that prohibits discrimination and creates regulations around access was, and continues to be, an important step in addressing barriers to inclusion. Disability-based discrimination is often related to both prejudices as well as broader social barriers that deny people with disabilities equal opportunities. Some researchers describe the goal of the ADA “...to integrate persons with disabilities into the social mainstream,” (p. 13).¹ The ADA has regulations to address structural barriers (i.e. physical and programmatic issues) and discriminatory practices, in order to impact attitudes towards disability.

Much of the research on discrimination is about causes and frequency of negative attitudes held by people without disabilities. This research brief looks at the experiences of discrimination from the perspective of people with disabilities as a way to better understand the influence of the ADA.

HIGHLIGHTS OF FINDINGS

- The majority of research on people with disabilities’ experiences with discrimination is related to employment.
- Disability-based discrimination is both influenced by and influences the view of what people with disabilities are able to do.
- People with disabilities experience discrimination through attitudinal and structural barriers to inclusion.
- People with disabilities respond to discrimination through a variety of ways, including legal action. However, many cases are not ruled in favor of people with disabilities.

What the Research Says

Discrimination comes in many different forms. Research throughout the last three decades highlights how people with disabilities experience discrimination and negative attitudes. This research brief organizes these ideas as well as how people with disabilities respond to discriminatory experiences. The following section is divided into three areas where there is

information from people with disabilities reporting and describing their experiences with discrimination. While people with disabilities experience discrimination in various domains of their public and private lives, these are some topics for which researchers have begun to document the perceptions and experiences of people with disabilities.

Differences in Experiences

The experiences of discrimination amongst people with different disabilities are diverse. Demographic factors have been shown to affect both prevalence and type of discrimination. For example, people whose need for accommodations change at different times, such as people with mental health conditions, are more likely to report workplace discrimination than people with other types of impairments.² Another study found that people with physical disabilities experience different attitudes and misperceptions in the workplace when compared to other groups, such as people with learning disabilities.¹ Furthermore, race, gender, and socioeconomic class have also been shown to impact and compound experiences of disability-based discrimination.³ African Americans, women, and people with low incomes are all more likely to report disability-based discrimination in health care.³

Social factors such as family, social class, race, and religion also influence how people understand their rights and types of resources available to address inequalities.¹ Timing of a disability onset or diagnosis is also a critical factor, as people have varying kinds of resources at different times in their lives. One study furthers this idea by exploring the relationship between age and disability discrimination through data from the Equal Employment Opportunity Commission (EEOC), the agency in charge of enforcing the ADA in employment.⁴ There is evidence that older workers are more likely to perceive and file complaints regarding employment discrimination. These variances highlight the diversity within the disability community and how people with disabilities experience discrimination in different ways. Recognizing differences in experience is noteworthy as is acknowledging the widespread prevalence of disability-based discrimination.

Employment

Employment is one of the most documented and researched areas regarding the ADA and disability-based discrimination. Though prohibited in the ADA, discrimination in the workplace has been a longstanding issue for people with disabilities. Nearly one in ten working adults with disabilities reported experiencing some kind of workplace discrimination within the five years after the passage of the ADA, and almost a third of these respondents permanently exited the workforce.⁵

Workplace discrimination is often subtle, however people with disabilities have expressed that negative attitudes towards disability influence their success in employment.⁶ One study, which involved sending mock job applications, found that those who disclosed disability (either spinal cord injury or Autism) received 26% fewer expressions of employer interest than applicants that did not include a disability disclosure.⁷ Stigmatizing attitudes have been perceived by people with disabilities to negatively impact progress in their careers through not getting hired, being denied promotions, having extended probationary periods, or being treated differently than coworkers without disabilities.^{6,7,8,9,10} In a study conducted by the Center for Talent Innovation

as described in an article published by the *Harvard Business Review*, a third of survey respondents with disabilities indicate that they had experienced negative bias in the workplace such as feeling underestimated, insulted, excluded, or had coworkers appear uncomfortable because of their disability.⁹ Almost half of these respondents (47%) also report that they would never achieve a leadership role in their company, regardless of their performance or qualifications.⁹

Disclosing a disability, or sharing a disability status, is clearly influenced by experiences of discrimination. In one study, less than half of respondents with disabilities (39%) report that they had disclosed to a manager and even fewer had told other colleagues (24%); only 4% of respondents told clients about their disabilities.¹¹ Reasons for employees with disabilities to hide their disability status include fear of teasing, harassment, potential changes in coworker relationships, being perceived as less capable, and reduced progress in their careers. Not disclosing a disability status has been described as “allowing people with disabilities to be employed ‘without fear of prejudice or discrimination’” (p. 487).¹²

Another study found that people with disabilities who do not disclose on a job application, but later disclose their disability status at work, are also met with discriminatory behaviors such as coworker unease, inappropriate questions, and assumptions about their capability.⁸ Choosing to disclose a disability status is a delicate situation due to the prevalence of disability discrimination, however there are noted benefits of disclosure for some. For example, one study estimates that employees with disabilities who disclose are more content (65% versus 27%) and less isolated (8% versus 37%) at work than employees who do not disclose.¹¹

Experiences of employment discrimination are not limited to attitudes, as people with disabilities may face other types of structural barriers. Examples include lack of physical accessibility in the workplace, such as absence of accessible restrooms, inaccessible equipment to perform job tasks, and lack of access to reasonable accommodations.¹ This physical inaccessibility can also impact feelings of isolation. Another study identifies barriers to inclusion in the workplace by interviewing employees with disabilities in large, public-sector organizations.¹³ The study reveals that people with disabilities experience both physical and social segregation at work. One of the participants of this study describe how their office places employees with disabilities in “a little corner spot where nobody can see them” (p. 145).¹³ The segregated desk location not only physically isolates the participant but also prevents social interactions with colleagues. Access discrimination such as this translates into business concerns as feelings of disability-based discrimination have been shown to significantly reduce job satisfaction.¹⁴

Home and the Community

Housing

In addition to work, people with disabilities also experience discrimination in access to housing and the community. Institutionalization is a longstanding issue in the disability community, and often refers to the physical segregation of people with disabilities living and/or spending time in areas that are designated solely for people with disabilities. In a landmark decision as part of *Olmstead vs L.C.*, the U.S. Supreme Court ruled that unjustified segregation violates the ADA.

However, there are still many people with disabilities who live and spend time in institutional settings. Researchers explored this topic and found that people with intellectual disabilities who live in institutions report experiences of exclusion and discrimination.¹⁵ These reports include notes of overly restrictive environments, lack of privacy, and difficulty getting involved in the community because of the physical and social segregation as a result living in an institutional setting.

Institutionalization is not the only issue related to community living and experiences of discrimination for people with disabilities. Though not regulated by the ADA, housing is a major issue and source of discrimination for people with disabilities. A study sponsored by the U.S. Department of Housing and Urban Development found that people who are deaf or hard of hearing face significant barriers during the home seeking process, including communicating with housing providers and learning about available units.¹⁶ Additionally, people who use wheelchairs face barriers at several points in the home finding process, including locating accessible units, setting up appointments with providers to be shown units, and getting responses to reasonable modification requests.¹⁶ These issues are made worse by the fact that 14-29% of federally funded housing facilities are estimated to violate federal regulations regarding access.¹⁷

Social and Public Spaces

People with disabilities may experience discrimination when trying to access public spaces. For example, social stigma is another issue faced by people with disabilities. Researchers describe disability stigma, or negative attitudes or misconceptions towards disability, as a relationship between knowledge (ignorance), attitudes (prejudice), and behavior (discrimination).¹⁸ These aspects are well documented in disability-based discrimination. In fact, people with mental health conditions report concerns about being viewed unfavorably based on their disability status, and over half of the respondents said that they have heard offensive statements about mental illness.¹⁹ These factors shape public awareness about the capability of people with disabilities.²⁰ Many of the mentioned access barriers are rooted in negative attitudes that surround disability.

Another noteworthy example of disability discrimination is access to voting. A research team reviewed information from the U.S. 2012 elections and found that almost a third (30.1%) of voters with disabilities experienced some kind of difficulty in the voting process, which differs greatly from those without disabilities (8.4%).²¹ The most common barrier was being able to see the ballot and understanding how to use the voting machines. Voting is a foundational right, and access barriers prohibit the participation of people with disabilities. This exemplifies a sentiment in other literature, that feelings of discrimination faced by people with disabilities can influence identifying as a citizen.²²

Responding to Discrimination

People with disabilities deal with discrimination and stigma in a variety of ways. Some people with disabilities choose to ignore negative attitudes, in order to not perpetually feel upset or the need to consistently react to negative interactions.¹ People with disabilities may not

identify negative interactions as discriminatory if they do not have language or words to describe their experiences.¹ In fact, people with disabilities are hesitant to use the ADA or seek litigation due to social factors and describe a “threshold,” or feelings of a “minimum” level, of discrimination that must be reached prior to taking action through the ADA.

While choosing to take legal action is a complex decision, it is a powerful way for people with disabilities to respond to discrimination. Trends in legal filings change over time and are influenced by contextual factors. A review of EEOC case data shows a decrease in allegations from 2001- 2008, prior to the passage of the ADA Amendments Act (ADAAA), which greatly broadened the definition of disability and redefined the intent of the ADA.²³ Since the ADAAA was enacted, there has been a steady increase in allegations regarding disability discrimination. However, many cases are not closed in favor of claimants (i.e. people with disabilities). In fact, a review of EEOC claims from 1992-2011 found only 23.4% of cases are closed with merit, meaning that they affirmed disability discrimination, while 76.6% of cases are closed without merit, meaning in favor of the employer.²³ Additionally, claimants who are perceived as disabled rather than claimants with documented disabilities, are more likely to file charges related to disability discrimination and have cases ruled in their favor.²⁴ Most discrimination cases are related to job retention or quality of work; the most common allegations of workplace discrimination are discharge and failure to receive reasonable accommodations.²³ Though discrimination in hiring is less common, it is also notable as legal cases regarding hiring are closed in favor of people with disabilities at higher rates than other allegations.²⁵

Conclusion

The goal of this brief is to present a 'state of the state' of how people with disabilities perceive discrimination in relation to the ADA, the types of issues experienced, and outcomes of these events. People with disabilities face significant discrimination in many areas, including employment and in public and private aspects of life- some of which are covered in this research brief. To date, the majority of research is related to employment and there is limited information related to other areas of private and public life. While disability-based discrimination is a major facet of life for people with disabilities, these experiences are not universal and are influenced by many factors. Responding to discrimination also varies, and people with disabilities must make complex decisions when choosing to invoke legal action such as through the ADA. There is growing public interest in experiences of disability discrimination, and there is a need for more research on experiences of discrimination particularly from the perspective of people with disabilities.

Examples from the ADA National Network

Below are a few examples of how the ADA national network are addressing the issues raised in this brief. For further information on how the ADA Centers can help with issues related to the ADA, please contact the [ADA National Network here](#).

- **Giving advocacy tools:** A person with vision and hearing disabilities contacted ADA center staff regarding his rights to travel by taxi or public transportation with his service dog. He was very pleased with the explanation he received. After some discussion, the

staff person provided the caller with a laminated copy of the explanation, so he could show it to cab drivers where he lives. Having information on hand is helpful to share when traveling with his service dog and helping to advocate for his rights.

- **Ensuring parking access:** A person reached out to the ADA center to ask a question about accessible street parking regulations, as two spots were added outside of her office that she did not think looked accessible. The technical assistant shared the guidance regarding street accessible parking design and the caller forwarded the information to the city administration. Within 24 hours, the city began to properly mark the spots and the owner of the building moved a bench to align with accessible parking regulations.
- **Newsworthy information:** Another ADA Center was contacted by a local news station after a wheelchair user reached out to discuss blocking the access aisles in accessible parking spaces. Technical assistants provided information to the news reporter about the purpose of access aisles. A few days later, the reporter followed up with the ADA Center and shared they had received positive comments about the story and how it changed peoples' attitudes and future actions to help keep access aisles unblocked.

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For More Information, Please Contact:

Sarah Parker Harris (skparker@uic.edu) and Rob Gould (rgould3@uic.edu)

Department of Disability and Human Development

University of Illinois at Chicago

1640 W. Roosevelt Road (MC 626)

Chicago, IL 60608

Phone: (312) 413-1647

Fax: (312) 413-1630

TTY: (312) 413-0453

<http://www.ahs.uic.edu/dhd/>

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