

Differences in Americans with Disabilities Act Title I discrimination allegations filed by people with learning disabilities and other disabilities

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Received 9 December 2020

Revised 28 July 2021

Accepted 17 November 2022

Pre-press 1 February 2023

Published 17 March 2023

Abstract.

BACKGROUND: Workers with learning disabilities (LD) report many barriers to employment, including discrimination on the part of employers.

OBJECTIVE: To compare the workplace discrimination experiences of workers with LD to those of people with other disabilities.

METHOD: The comparison of the two groups, people with LD and people with other disabilities, concerned three factors: Characteristics of Charging Parties, prominent issues involving the nature of the discrimination allegation, and the outcomes of EEOC investigations at the time of case closure. An ex post facto, causal-comparative quantitative design was used to examine allegations closed following the ADA Amendments Act of 2008 (ADAA).

RESULTS: Results revealed statistically significant differences in characteristics of the Charging Parties in the two groups. The LD group was significantly younger, more Caucasian, and more male than general population disabilities (GENDIS). The LD group was less African American, Latina/o, or Asian than GENDIS. Regarding the nature of allegations, the substance of allegations made by the LD group was more likely to involve matters of disability harassment, discipline, hiring, constructive discharge, training, and promotion. The LD group was less likely to file allegations involving reasonable accommodation, assignment, and layoff.

CONCLUSION: Workers with learning disabilities experience high rates of employment discrimination, and the types of discrimination they experience are different than those experienced by people with other disabilities.

Keywords: Learning disabilities, workplace discrimination, vocational rehabilitation

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1. Introduction

Vocational rehabilitation (VR) counselors and health care professionals have long recognized the importance of employment to the health and well-being of people with chronic illnesses and disabilities (Strauser, 2021). Unemployment has been repeatedly linked to undesirable health conditions such as cardiovascular disease, hypertension, and musculoskeletal disorders (Nørup, 2020; Pharr, Moonie, & Bungum, 2012; Quarells, Liu, & Davis, 2012). Unemployment affects health through poverty related-stressors, negative effects on psychosocial adjustment, and increased involvement in high-risk health behaviors (Altweck et al., 2021; Strauser, 2021). Unemployed individuals also experience higher rates of chronic stress, anxiety, depression, substance abuse, and mental health hospitalizations than employed persons (Henkel, 2011; Pignault, Thill, & Houssemand, 2019; Roelfs, Shor, Davidson, & Schwartz, 2011).

The well-documented, detrimental consequences of unemployment are especially problematic for people with learning disabilities (LD) given their low labor force participation rate and somewhat limited success in postsecondary education (National Center for Learning Disabilities, 2017; Wehman, 2013). Students with LD comprise the largest category of individuals receiving special education and transition services in American public schools. Current estimates show that 2.3 million LD students are present in American public schools. This figure represents roughly 5 percent of the total public-school enrollment (National Center for Education Statistics, 2020). When children and adults are included, approximately 4.6 million Americans (1.7% of the population) have LD. The incidence of LD is higher among males, and even more elevated for those living in poverty (Rubin, Roessler, & Rumrill, 2016).

Educational and employment outcomes among the sizable population of people with LD lag far behind those of non-disabled people. Students with LD drop out of school at three times the rate of their peers without disabilities. The LD enrollment rate in four-year colleges languishes at half the rate of other groups (National Center for Learning Disabilities, 2017). Working-age adults with LD are twice as likely to be unemployed compared to those without disabilities. Only nineteen percent of young adults with LD disclose their condition to their employers. Less than five percent report receiving workplace accommodations (Cortiella & Horowitz, 2014; National Center

for Learning Disabilities, 2017). Underemployment has plagued Americans with LD for decades. Two-thirds of high school graduates with LD report annual incomes of less than \$25,000 at 8-year follow-ups (National Center for Learning Disabilities (2017).

Rubin et al. (2016) reported that discriminatory conduct toward workers with LD is a persistent problem, one that may partially account for the high rates of unemployment and underemployment in this population. However, limited evidence exists as to the specific nature and scope of the problem. This article endeavors to address this knowledge deficit using data collected by the United States Equal Employment Opportunity Commission (EEOC) during the Americans with Disabilities Act Amendments Act (ADAAA) era.

1.1. *The national EEOC ADA research project*

The National EEOC ADA Research Project (NEARP) is an exhaustive data-mining effort that relies upon the Integrated Mission System (IMS) database used by the EEOC to track investigations of workplace discrimination. These data enable the researcher to develop disability or industry-specific profiles of discrimination, explore contentious Issues involving the specific nature of unlawful practices, document the intersectionality of disability with other demographics, evaluate extant theories of stigma, and predict EEOC investigatory outcomes as they may favor Employers or Charging Parties (McMahon et al., 2005).

As reported by McMahon and McMahon (2016), the IMS database is used as a management tool to monitor workflow, performance, trends, and outcomes for EEOC field office investigators. The NEARP team was the first to utilize this database for research purposes under the scrutiny of multiple university IRBs and the EEOC Office of Research, Information, and Planning. Since its inception, NEARP has obtained data on 823,536 closed allegations spanning from the effective date of ADA Title I on July 26, 1992, through December 31, 2016. This study seeks to examine the nature and scope of Title I allegations filed by individuals with LD in the post ADAAA era, i.e., the eight-year period from 2009 through 2016.

1.2. *The present study: Rationale and purpose*

The workplace discrimination experiences of people with LD post ADAAA are compared with those

of people with other disabling conditions to tease out unique features if any. Each allegation documents a claim that an unlawful personnel action (aka “Issues”) has been perpetrated by an Employer against a Charging Party. These Issues, as well as demographic information and the meritorious nature of investigation outcomes, are the factors being compared involving the LD vs. general population disabilities (GENDIS) groups. Such an investigation provides a basis for continued research into how, where, and to whom workplace discrimination occurs. Indeed, light may occasionally shine upon the “why.” This new knowledge can lead to the development of interventions to mitigate the occurrence of workplace discrimination involving people with LD.

1.3. Research questions

1. Do patterns in workplace discrimination allegations filed by Americans with LD differ from those brought by Americans with other disabilities in terms of the Issues alleged to have occurred?
2. Do patterns in workplace discrimination allegations filed by Americans with LD differ from those brought by Americans with other disabilities in terms of Charging Party characteristics?
3. Do patterns in workplace discrimination allegations filed by Americans with LD differ from those brought by Americans with other disabilities in terms of Merit vs. non-Merit findings from the EEOC investigation?

2. Method

The research team implemented an *ex post facto*, causal-comparative quantitative design (Rumrill & Bellini, 2018) that included descriptive, inferential, and non-parametric analyses. The overarching purpose of the study was to advance our understanding of the workplace discrimination experiences of Americans with LD.

2.1. Unit of focus: Allegations filed by charging parties

To answer the research questions, researchers utilized the entire population of ADAAs Title I complaints filed by Charging Parties with LD and investigated and closed by the EEOC from 2009 through 2016 ($n=6,321$). The comparison group,

known hereafter as GENDIS, included nine other NEARP codebook categories of known physical disabilities or chronic health conditions and excluding known behavioral, neurological, or sensory impairments. GENDIS conditions included allergies, asthma, disfigurement, missing digits or limbs, non-paralytic orthopedic impairments, gastrointestinal impairments, cystic fibrosis, tuberculosis, and other respiratory or pulmonary impairments ($n=44,558$).

2.2. Database and variables

The primary unit of measure in this study was an allegation of employment discrimination filed by a person with LD or another disability (GENDIS) with the EEOC since the effectuation of the ADAAs on January 1, 2009. Each allegation was treated as one distinct data point in the IMS system; if one individual filed more than one allegation with the EEOC under Title I of the ADAAs, each allegation was investigated and adjudicated separately. The number of allegations is greater than the number of Charging Parties in the IMS database because many Charging Parties file more than one allegation. In EEOC parlance, allegations are referred to as “Issues.” An Issue describes the nature of the unlawful personnel action alleged by the Charging Party (CP). There are 41 unique Issues that have some level of allegation activity ranging in frequency from 10 to 260,572 in the overall EEOC ADAAs Title I allegation database.

In order of frequency found in the NEARP Codebook (McMahon & McMahon, 2016), these 41 Issues include Discharge, Failure to Accommodate, Terms/Conditions of Employment, Disability Harassment, Hiring, Discipline, Constructive Discharge, Layoff, Promotion, Other Issues, Wages, Demotion, Suspension, Reinstatement, Job Assignment, General Benefits, Intimidation, Insurance Benefits, Recall, Training, Union Representation, Involuntary Retirement, Unfavorable References, Job Classification, Pension Benefits, Qualification Standards, Referral, Seniority, Testing, Segregated Unions, Posting Notices, Severance Pay, Tenure, Maternity Leave, Waiver of Age Discrimination in Employment Act Rights, Early Retirement Incentive, Segregated Facilities, Apprenticeship, Record Keeping, Advertising, and Segregated Local Unions. It is worth noting that the top five Issues on this list account for 76% of all allegation activity. Four of these five Issues have been thoroughly documented in special issues of peer-reviewed journals devoted to each (Hurley, 2010; McMahon, West, & Hurley,

2006; McMahon, Hurley, West, Chan, Roessler, & Rumrill, 2008; Roessler, Hurley, & McMahon, 2010; Shaw, Chan, & McMahon, 2012; West, 2008).

2.2.1. Characteristics of charging parties

The characteristics of CPs included age, gender (female/male), race/ethnicity, and disability type. Disability type (i.e., LD or GENDIS) served as the two-level independent or grouping variable.

2.2.2. Resolution

This refers to the final EEOC determination, following a thorough investigation, as to whether or not discrimination occurred. For purposes of this study, resolutions were dichotomously classified as Merit, favoring the Charging Party (discrimination did occur) or Non-Merit, favoring the respondent employer (discrimination did not occur).

2.3. Procedure

Researchers proceeded to extract and refine the IMS database to retrieve, verify, and examine closed ADA allegations. To conduct this investigation, the researchers, via NEARP, secured permission to access the IMS database with proper protections for the CPs (applicants or employees) and Respondents (Employers). Only "closed" allegations are captured in the NEARP database.

Information that served as the basis for this study pertained to the types and numbers of complaints of employment discrimination under Title I of the ADA filed by Charging Parties (CP) with LD and the GENDIS comparison group, CP characteristics, and outcome of EEOC investigations. A study dataset was extracted to include only those variables related to the research questions. To protect the identities of CPs and Employers, the extraction process adhered to specific guidelines:

1. The unit of study was an allegation; it was not an individual CP, nor an individual Employer. A single CP may bring more than one allegation or may bring the same allegation on more than one occasion (e.g., in 2009 and again in 2012).
2. Only unique allegations that do not involve recording errors or duplications were included in the study dataset.
3. To maximize confidentiality, all identifying information regarding CPs and Employers was purged except for age, race/ethnicity, gender, and disability status of CPs. No employer data were included in the present analyses.
4. Study data were strictly limited to allegations brought under Title I of the ADA. Allegations brought under other federal employment statutes that are not directly related to disability status including the Civil Rights Act, Equal Pay Act, Age Discrimination in Employment Act, and the Family and Medical Leave Act were not considered.
5. Due to the wide variations in state anti-discrimination statutes based on disability, state charges also were excluded to maintain a consistent definition of both disability and discrimination as well as consistent investigatory processes.
6. To maintain consistency in definitions and procedures among the study variables, only allegations received, investigated, and closed by the EEOC were included. This required the exclusion of allegations referred by the EEOC to litigation for disposition in civil court, federal or state.
7. Allegations of retaliation were also excluded because these could not be verified as related to the existence or consequence of disability.
8. Only allegations that had been closed by the EEOC during the study period, defined as January 1, 2009 (the first effective date of ADA) through December 31, 2016, were included in the study dataset.

Application of these inclusion and exclusion criteria resulted in a study dataset of 6,321 allegations of employment discrimination pertaining to the target group, individuals with LD. The previously described comparison group, GENDIS, included 44,558 allegations.

2.4. Statistical analysis

Data were imported into the Statistical Package for the Social Sciences (SPSS) version 21 for all analyses. Descriptive statistics such as means, standard deviations, ranges, frequencies, and percentages were used to illustrate the distribution of scores between the two groups on all independent and dependent variables. For each categorical dependent variable (i.e., issues, CP gender, CP race/ethnicity, resolution), a Pearson chi-square test was first utilized to test the homogeneity of proportions across the disability groups. If the Pearson chi-square test indicated the existence of significant proportional differences, standardized residuals greater than an absolute value

of 2.0 were used to pinpoint those statistically significant differences. This test statistic does not require independence of study data (some Charging Parties filed more than one allegation), equivalent group sizes, or normality of distribution assumptions.

For the continuous dependent variable of CP age, a *t*-test for independent samples was used to compare means between the two groups. To minimize the likelihood of Type 1 errors, the significance levels were set at 0.001.

3. Results

Findings are presented in descriptive, inferential, and non-parametric terms to illustrate the distribution of scores across the two referent groups. As noted in the Method section, the researchers applied primarily nonparametric statistics to answer the research questions.

3.1. Types of alleged discrimination

3.1.1. Do patterns in workplace discrimination allegations filed by americans with LD differ from those brought by americans with other disabilities in terms of the issues alleged to have occurred?

The first analysis explored the specific types of allegation issues (specific discriminatory actions) as reported by CPs with LD in comparison to the Issues alleged by CPs in GENDIS. Table 1 presents a

comparison of issues for both groups. The * symbol denotes statistically significant differences between the two groups in the proportions of allegation type.

As can be seen in Table 1, the most common allegations filed by CPs with LD during the 2009–2016 retrospective observation period involved discharge (28.6%), reasonable accommodation (18.4%), harassment (13.3%), terms and conditions (10.6%), discipline (7.4%), hiring (3.0%), constructive discharge (2.7%), suspension (2.1%), assignment (2.0%), and intimidation (1.8%). Readers will note that the five most common types of Issues filed by CPs with LD (*n*=4,941) comprised 78.1 percent of the total number of allegations filed by that group. The most common allegations in the GENDIS group involved discharge (29.3%), reasonable accommodation (25.1%), terms and conditions (10.6%), harassment (8.8%), discipline (5.7%), assignment (2.5%), hiring (2.4%), constructive discharge (2.2%), suspension (1.8%), and intimidation (1.3%). Similar to the LD group, the five most common types of Issues in the GENDIS group (*n*=35,420) comprised 79.4 percent of that group’s total allegations.

A chi-square analysis revealed statistically significant differences in the pattern of Issues alleged by CPs with LD in comparison to the pattern of Issues alleged by the GENDIS group ($X^2(41, N=50,879)=538.734, p<.001$). Specifically, CPs with LD were more likely than the GENDIS group to allege discrimination related to harassment, discipline, hiring, constructive discharge, training, and promotion. CPs with LD were less likely than the GENDIS group to allege discrimination related to reasonable accommodation, assignment, and layoff.

3.2. Characteristics of charging parties

3.2.1. Do patterns in workplace discrimination allegations filed by americans with ld differ from those brought by americans with other disabilities in terms of charging party characteristics?

The second set of analyses concerned the demographic characteristics of ADAAs Title I CPs who have LD and how they differ from the demographic characteristics of the GENDIS comparison group. Age, gender, and race/ethnicity were considered. The mean age for CPs with LD was 39.75 years (*SD*=12.067), whereas the mean age for CPs in the GENDIS group was 47.86 years (*SD*=11.393). A *t*-test revealed that CPs with LD were, on average,

Table 1
Differences in proportion by discrimination issues

| Issues | LD (<i>n</i> =6,321) | | GENDIS (<i>n</i> =44,558) | | SR |
|---------------------------|--------------------------|------|-------------------------------|------|-------|
| | F | % | f | % | |
| Discharge | 1,808 | 28.6 | 13,050 | 29.3 | NSD |
| Reasonable accommodation* | 1,161 | 18.4 | 11,174 | 25.1 | -11.6 |
| Harassment* | 838 | 13.3 | 3,909 | 8.8 | 11.5 |
| Terms/conditions | 668 | 10.6 | 4,738 | 10.6 | NSD |
| Discipline* | 466 | 7.4 | 2,549 | 5.7 | 5.2 |
| Hiring* | 192 | 3.0 | 1,082 | 2.4 | 2.9 |
| Constructive discharge* | 170 | 2.7 | 997 | 2.2 | 2.2 |
| Suspension | 133 | 2.1 | 820 | 1.8 | NSD |
| Assignment* | 124 | 2.0 | 1,125 | 2.5 | -2.7 |
| Intimidation | 111 | 1.8 | 654 | 1.3 | NSD |
| Training* | 89 | 1.4 | 171 | 0.4 | 10.7 |
| Promotion | 84 | 1.3 | 511 | 1.1 | NSD |
| Demotion* | 83 | 1.3 | 433 | 1.0 | 2.5 |
| Other | 52 | 0.8 | 439 | 1.0 | NSD |
| Layoff* | 43 | 0.7 | 518 | 1.2 | -3.4 |

Table 2
Differences in charging party characteristics

| Characteristics | LD (<i>n</i> = 6,321) | | GENDIS (<i>n</i> = 44,558) | | SR |
|------------------------------------|---------------------------|------|--------------------------------|------|-------|
| | f | % | f | % | |
| Gender | | | | | |
| Female* | 3,087 | 52.1 | 23,536 | 56.6 | -6.6 |
| Male* | 2,840 | 47.9 | 18,258 | 43.4 | 6.6 |
| Race/ethnicity | | | | | |
| Caucasian* | 3,911 | 70.7 | 23,106 | 59.8 | 15.7 |
| African American* | 1,298 | 23.5 | 12,533 | 32.4 | -13.4 |
| Latina/o* | 157 | 2.8 | 1,603 | 4.1 | -4.6 |
| Native American/ Alaskan Native | 110 | 2.0 | 801 | 2.1 | NSD |
| Asian* | 52 | 0.9 | 625 | 1.6 | -3.8 |

Note: Respondent Ns for the two demographic variables of gender and race/ethnicity are different due to missing data for those variables.

significantly younger than CPs in the GENDIS group ($t(46,778) = -50.029, p < 0.001$).

Concerning gender, CPs with LD were 52.1 percent female and 47.9 percent male, whereas the GENDIS group was composed of 56.6 percent females and 43.4 percent males. A chi-square analysis revealed that CPs in the LD group were significantly less likely to identify as female and therefore more likely to identify as male ($X^2(1, N = 47,485) = 43.605, p < 0.001$).

As can be seen in Table 2, the racial/ethnic profile of the LD group was 70.7 percent Caucasian, 23.5 percent African American, 2.8 percent Latina/o, 2.0 percent Native American/Alaskan Native, and 0.9 percent Asian. The GENDIS group was 59.8 percent Caucasian, 32.4 percent African American, 4.1 percent Latina/o, 2.1 percent Native American/Alaskan Native, and 1.6 percent Asian. A chi-square analysis revealed that the LD group had proportionally more individuals who identified as Caucasian and proportionally fewer who identified as African American, Latina/o, or Asian than did the GENDIS comparison group ($X^2(4, N = 44,196) = 254.182, p < 0.001$).

3.3. Outcomes of EEOC investigations: Merit vs. non-merit

3.3.1. Do patterns in workplace discrimination allegations filed by americans with ld differ from those brought by americans with other disabilities in terms of merit vs. non-merit findings from the EEOC investigation?

The final comparison in this study involved the legal outcomes or resolutions of the EEOC

investigatory process with respect to allegations brought by CPs with LD vs. GENDIS. The researchers collapsed all case resolutions into two categories: merit resolutions, and non-merit resolutions. Merit resolutions include withdrawal with benefits, settlement with benefits, successful conciliation, and conciliation failure. Non-merit resolutions include “no cause” and administrative closures. Less than one-quarter (23.0%, $n = 1,455$) of allegations by people with LD were resolved with merit and 77.0 percent ($n = 4,866$) were non-merit resolutions. For the GENDIS group, the proportions of merit and non-merit resolutions were 24.7 percent ($n = 11,002$) and 75.3 percent ($n = 33,556$) respectively. A chi-square analysis revealed that these proportions of merit resolutions between the two groups were not significantly different at the preset Alpha level of 0.001 ($X^2(1, N = 50,879) = 8.379, p < 0.01$).

4. Discussion

4.1. Allegation issues

In absolute terms, the lists of most commonly alleged types of discrimination are quite similar for both the LD and GENDIS groups. The top five allegation types – discharge, reasonable accommodation, harassment, terms and conditions, and discipline – are the same for both the LD and GENDIS groups with only one ordinal difference, and those five most frequently alleged Issues comprise more than 75 percent of the total allegations for both groups.

Examining the types of discrimination alleged by people with LD and other disabilities more closely, however, reveals several proportional differences. Statistically significant differences in the frequencies of types of discrimination were seen in nine of the 41 allegation types found in the NEARP codebook.

The most prevalent Issue where a significant difference was observed was in the area of reasonable accommodations, where Americans with LD were proportionally less likely to allege discrimination in comparison to their GENDIS counterparts. This finding warrants further discussion. On one hand, this finding may suggest that workers with LD experience fewer problems securing job accommodations than do workers with other disabilities, whether that is because they have less need for accommodations or have more success requesting them from their employers than do other workers. Previous research found that only five percent of young adults with LD

report using workplace accommodations (Cortiella & Horowitz, 2014; National Center for Learning Disabilities, 2017), but it is unknown whether this is because their disability-related work limitations do not necessitate accommodations or whether they need accommodations that are not provided. In any case, workers with LD cite employers' failure to provide reasonable accommodations relatively rarely in ADAAs Title I allegations. Previous literature has suggested that as many as two-thirds of adults with LD had never heard of the ADA or were not confident enough to use it to secure needed accommodations (National Center for Learning Disabilities, 2017). Reviewing the pros and cons of disability disclosure, as well as the benefits of and the legal right to request and receive workplace accommodations, must be a central focus of job placement and retention efforts on behalf of people with LD.

On the opposite end of the allegation spectrum, Americans with LD were far more likely than their GENDIS counterparts to allege discrimination on the following higher incidence Issues: harassment, discipline, hiring, and constructive discharge. As VR professionals assist in preparing individuals with LD to apply for and interview for jobs, they should anticipate an increased chance that the individual might encounter barriers to the hiring process and prepare accordingly. Additional time might be well spent in preparing for the interview process itself and educating VR consumers on what is appropriate to disclose within the interview process. Finally, when developing a job retention strategy with consumers diagnosed with LD, it may also be appropriate to prepare for the increased chance that they might encounter harassment, unfair discipline practices, and the phenomenon of constructive discharge, which essentially occurs when the employer creates a sufficiently negative work environment for the worker that she or he quits the job.

4.2. Characteristics of charging parties

Results revealed that the LD group was characteristically different from the GENDIS group on important demographic dimensions. CPs with LD were younger on average; more likely to be male and Caucasian; and less likely to be African American, Latina/o, or Asian than the comparison group.

For several reasons, these results are not consistent with what might be logically expected given what is known about the nature and characteristics of Americans with LD. First, concerning age, it has

been well-established that individuals do not "grow out" of having an LD (Cortiella & Horowitz, 2014). Therefore, it would be expected that workers with LD would encounter workplace discrimination uniformly across age groups, no different than those with other disabilities. The finding that workers with LD alleging discrimination were significantly younger (by an average of around 8 years) calls into question why a younger worker with LD would be more likely to either encounter or report workplace discrimination. The data present no definitive response, yet this finding does present a meaningful area for future research questions into the role age plays in this process. For example, is age a moderating factor in whether an individual might identify as an individual with LD? Are older individuals with LD less likely to be targets of workplace discrimination?

Due to the aforementioned differences in the diagnoses of LD across genders (males are diagnosed with LD at disproportionately higher rates than females), it is surprising to see that a majority of allegations filed by Americans with LD came from females (52.1%). More research is needed to determine why females with LD would be more likely to file a workplace discrimination allegation. It is worth noting that while females with LD filed at higher rates than males, the differences between the two genders was substantially smaller than the gender gap observed in the GENDIS group. The differences seen in the LD group may be part of a larger phenomenon of females with disabilities being more likely to make formal allegations of workplace discrimination to the EEOC. Alternatively, it could be indicative of the increased number of barriers LD presents to the occupations in which females are densely represented versus the occupations that are predominated by males.

In terms of the racial/ethnic profile that emerged within this study, it is important to consider what is known about the prevalence of LD across races and ethnicities in the US. When those profiles are misaligned, particularly toward the majority group, it is possible that intersectionality of minority racial/ethnic status and disability status is a factor. Do minority group members with LD experience more, not less, discrimination in the workplace? It immediately becomes a potential area of concern requiring more investigation. A higher prevalence of LD diagnoses is regularly observed in minority racial/ethnic populations, but several studies have demonstrated that this levels out when controlling for socioeconomic status (Coutinho, Oswald, & Best, 2002; Shifrer, 2018; Shifrer, Muller, & Callahan, 2011). It is

known that young African American males, a population over-represented in LD, experience the highest unemployment rates in the US (Bureau of Labor Statistics, 2021). Further, young African Americans (both males and females) diagnosed with LD have higher unemployment rates than their Caucasian or Latina/o counterparts (Ji et al., 2015). Given the significant disproportion in LD diagnoses, it may be reasonable that African American and Latina/o individuals with LD are significantly underrepresented in terms of workplace discrimination allegations.

4.3. Rate of merit case resolutions

Although not statistically different from one another, the merit rates of allegations filed by Americans with LD (23%) and the GENDIS group (24.7%) are consistent with the 25% range of merit closures observed not only for almost all ADA allegations but for every other protected class in federal civil rights laws. In brief, employers are well defended (and ADA literate) when it comes to EEOC allegations. Nonetheless, it behooves state VR, independent living centers, and advocacy groups to attend much more to ADA literacy education for their clients and constituents. Extremely effective training is available through such resources as the ADA National Network and the Job Accommodation Network. NEARP has completed nearly 100 studies and has seen elevated merit rates achieved by certain impairment groups that have advocacy organizations that attend to mitigating workplace discrimination. Until this education improves, non-Merit findings will represent the “perception of discrimination” and Merit findings will represent an actual discrimination event. In many situations, it may be more prudent for VR professionals to exhaust all efforts to resolve consumer issues in-house with their employers before encouraging legal action. In this way, they are maximizing the worker-employer bond while serving the client and engaging the employer for future placements.

4.4. Limitations

This study had several limitations that should be kept in mind when interpreting results. For instance, the available CP demographic data are mostly nominal, which restricts the types of statistical analyses that can be used for non-parametric statistics. Further, many personal characteristics are relevant to one’s employment situation that were not available in the database including relationship status,

family constellation, social supports, overall health status, occupational type, level of education, motivation, resilience, locus of control, socioeconomic status, and urban-rural-suburban residency. The data on the nature of CPs’ LD are limited, as well. Specific data regarding the types of LD for each CP, severity and compensatory skills, and overall intellectual ability were unavailable. Any of these may have had a bearing on CP and Employer experiences. Also, the impairment code at the time of claim filing is solely at the discretion of the CP and is based upon primary disability only. A second or higher number of allegations may be filed separately for co-occurring conditions if relevant. Finally, as with any unlawful act involving cases of civil or criminal allegations, only reported claims of workplace discrimination are available. NEARP regards as highly speculative any estimate of unreported discrimination.

5. Conclusion

The present results support previous studies that have emphasized the uniqueness of the issues and stigma faced by people with LD in the workplace. Although the exact nature and impact of workplace discrimination experiences are difficult to determine, it is clear that CPs with LD reported elevated levels of perceived discrimination in the areas of harassment, discipline, hiring, constructive discharge, training, and promotion. Conversely, CPs with LD were less likely than the GENDIS comparison group to allege discrimination related to reasonable accommodation, job assignment, and layoff. On average, CPs with LD were younger than the GENDIS group, and they were more likely to be male and Caucasian. There were no statistically significant differences between the two groups in their rates of merit case resolutions. As with all NEARP studies, CPs in the target group and comparison group prevailed in EEOC outcomes less than 25 percent of the time.

Where merit findings occur, a great deal is learned about actual workplace discrimination in a way that has more face validity than studies of attitude or stigma. NEARP is not hindered by sampling, nor is it influenced by a halo effect in the use of rating scales or surveys. NEARP data represent the measurable, indisputable facts about demographics; the crux of a discrimination allegation; and the outcome of a thorough, balanced, and professional case investigation. As social justice has re-emerged as a priority area of focus across American society, NEARP and

its many affiliates will continue to work to mitigate the insidious and un-American phenomenon of workplace discrimination against people with disabilities.

Acknowledgments

None to report.

Conflict of interest

The authors declare no conflicts of interest.

Ethics statement

The study was approved by the Kent State University Institutional Review Board (IRB #20-068).

Funding

The authors received no funding for this study.

Informed consent

Not applicable.

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