

Workplace Bullying, Harassment, and Disability

January 13, 2016

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Disclaimer



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Goals for this Session



- Review definitional and legal similarities and differences between harassment and bullying
- Discuss disability harassment and bullying in the workplace
- Consider the role of workplace culture in bullying and harassment
- Provide additional resources and information about filing a charge

Harassment



Harassment

A Form of Employment Discrimination



Unwelcome conduct based on membership in a protected category - race, color, sex, national origin, or disability

Harassment



- Conduct must create a work environment that would be intimidating, hostile, or offensive to a reasonable person

Or

- Enduring offensive conduct is a condition of maintaining employment

Offensive Conduct – Examples

severe and/or pervasive, regardless of
intent



- Name calling
 - Insulting
 - Spreading rumors
 - Interference with work performance
 - Offensive objects/pictures
 - Physical assaults/threats
-

Disability Harassment



Must establish 5 factors to claim disability harassment:

- Have a disability under the ADA
- Have been subjected to unwelcome harassment
- Harassment was based on disability
- Harassment was severe and pervasive enough to alter a term, condition, or privilege of employment
- Employer knew or should have known of the harassment and failed to take prompt, remedial action

Workplace Bullying



Workplace Bullying



Defined by the Workplace Bullying Institute as:

- Repeated, health-harming mistreatment of one or more persons (targets) by one or more perpetrators. **Abusive conduct** that is:
 - Threatening, humiliating, or intimidating, or
 - Work interference — sabotage — which prevents work from getting done, or
 - Verbal abuse

Workplace Bullying



- Repetitive and on-going
- Creates a “psychological power imbalance”
- Causes harm to both the target and witnesses

Polling Question #1



What percentage of employees are currently being bullied or have been bullied in the past year?

- A. 3%
- B. 7%
- C. 10%

Workplace Bullying



- 27% of employees have current or past direct experience with abusive conduct at work.
- 21% of employees have witnessed others being bullied

Source: 2014 Workplace Bullying Institute U.S. Workplace Bullying Survey

Bullying Members of Marginalized Groups



- Approximately 33% of Hispanic, Black, and Asian workers directly experienced bullying, compared to 24% of whites.
- Approximately 54% of minorities experienced and/or witnessed bullying versus about 44% of whites.
- Women are much more likely to be bullied – both by men and by other women.

Source: 2014 Workplace Bullying Survey

Trends in EEOC Charge Data: Across all EEOC

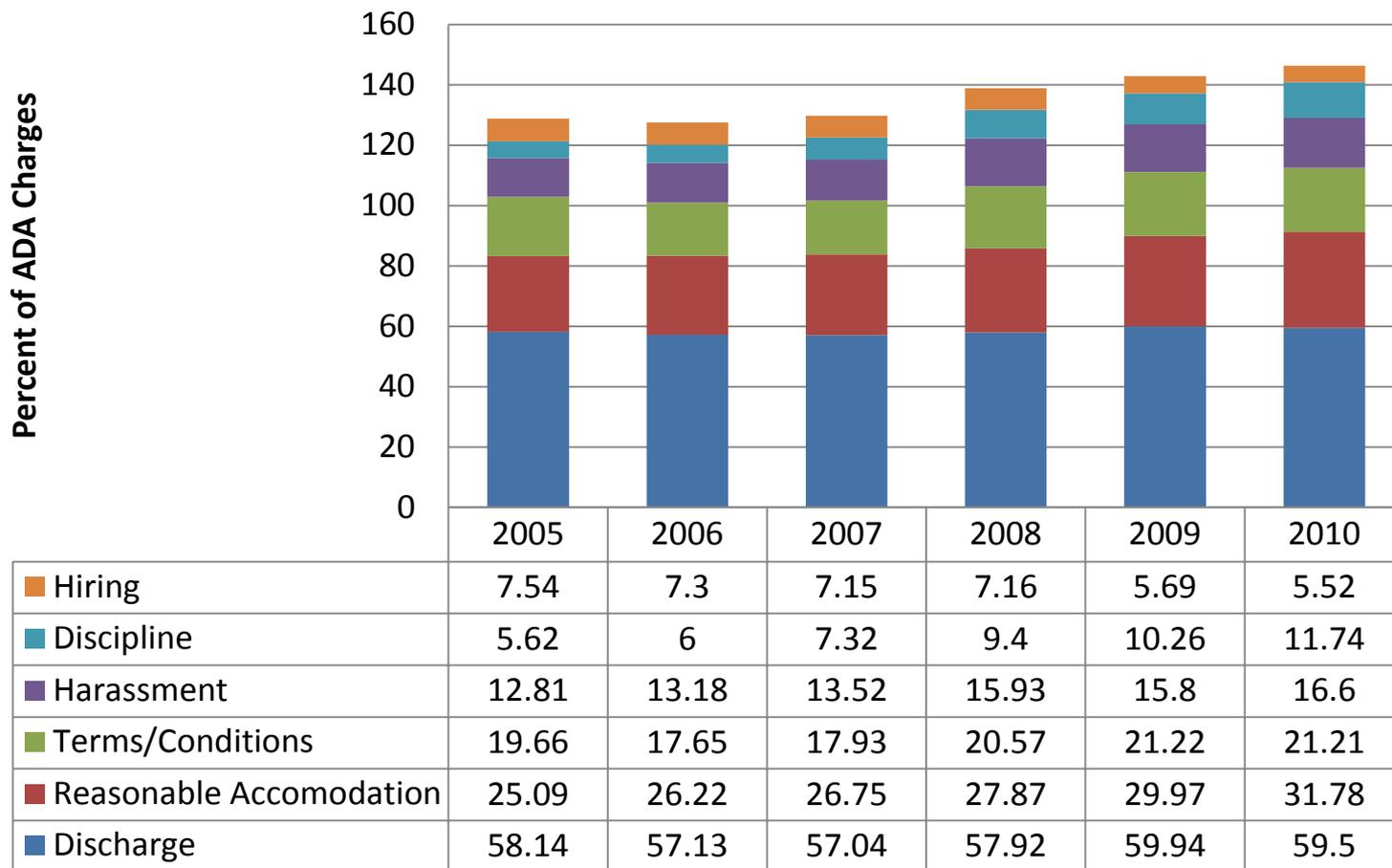


	2000	2005	2012	2013
Total #	79,896	75,428	99,412	93727
Race %	36.2	35.5	33.7	35.3
Gender %	31.5	30.6	30.5	29.5
National origin %	9.8	10.7	10.9	11.4
Religion %	2.4	3.1	3.8	4.0
Color %	1.6	1.4	2.7	3.4
Retaliation %	27.1	29.5	38.1	41.1
Age %	20.0	22.0	23.0	22.8
Disability %	19.9	19.7	26.5	27.7
Equal Pay	1.6	1.3	1.1	1.1

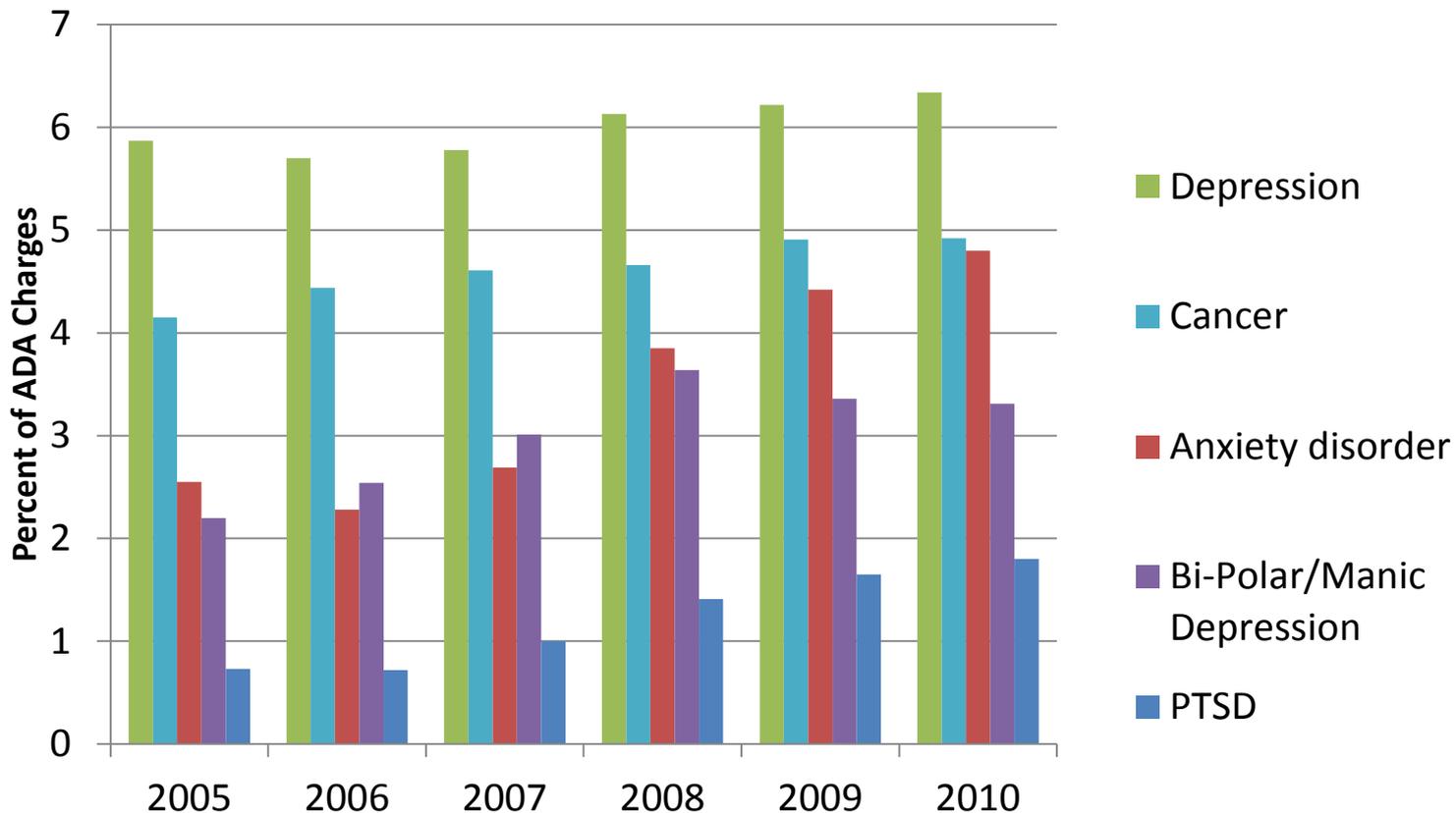
Note: Charges can be brought under more than one category

*EEOC (2012) *EEOC Charge Statistics FY 1997 – 2012*. Accessed at <http://eeoc.gov/eeoc/statistics/enforcement/charges.cfm>

ADA Employment Charges: Common Issues Cited 2005-2010



More ADA Charges Cited by People with Non-obvious Disabilities



Von Schrader, S. (2011). Calculations from EEOC Charge Files. RRTC on Employer Practices Related to Employment Outcomes Among Individuals with Disabilities. Ithaca, NY: Cornell University, ILR School, Employment and Disability Institute.

Bullying and Harassment of Employees with Disabilities



In our NIDILRR-funded Work-Life Balance and Disability Study:

- 23% of respondents experienced harassment and/or discrimination in the past year.
- Of these, 61% had apparent disabilities and 39% had nonvisible disabilities.

Polling Question #2



**Who is Most Likely to be the
“Bully”/Perpetrator?**

- A.** Supervisor
- B.** Direct Report
- C.** Coworker

Consequences of Workplace Bullying



- **Individual:** Stress-related physical health harm, emotional health harm, harm to social status, economic harm
- **Colleagues/Witnesses:** Stress-related physical health harm, emotional health harm
- **Employer:** Damage to morale and productivity, lack of trust, increased employee-related health costs, increased absenteeism, possible lawsuits and legal fees.

When bullying goes “unchecked,” targets may be more likely to retaliate.



“I have been treated as if my very presence at work was a detriment to the organization. I have been publicly treated as if I could not do the job even though I have proven my ability with reasonable accommodations. I have been treated as if I am a second class human being by potential employers as I seek employment. “

Polling Question #3

Is This Harassment?



A fitness equipment fabricator with anxiety disorder and depression was repeatedly subjected to derogatory comments about his mental health. He worked for the employer for 3 years and had good relationships with coworkers, prior to disclosing his disabilities. After disclosing, his supervisor called him degrading names and yelled at him in front of his coworkers - “incompetent”, “idiot”, “mental case” - such comments were made on a daily basis. The supervisor even said he wanted to put a shock collar on the employee because he was so forgetful and made a slashing motion across his neck. The negative environment forced the employee to quit in order to recover from increased anxiety.

Polling Question #4

Is This Harassment?



A man with progressive multiple sclerosis (MS) was working as a dispatcher. He used a cane for mobility and experienced numbness, and weakness in his limbs, as well as coordination problems, memory loss, cognitive impairment, and difficulty controlling his bowel and bladder. The man endured considerable name calling and ridicule by his coworkers, including being called derogatory names following the several bowel accidents he had while at work. Coworkers hid his cane in the warehouse stacks so he had to wait for someone to get it for him. The man was also the subject of two drawings that were displayed in the dispatch area, one depicting him as a Special Olympian and one as “Stupid Employee of the Month”, which continued to be displayed even after he filed a complaint against his employer.

Workplace Culture



- Organizational norms, stressors and culture play a key role in workplace bullying.
- Organizational change that is viewed as a threat can lead to bullying.
- Lack of civility codes and clear policies about bullying behavior, as well as lack of consequences for perpetrators, allows bullying to continue.

Responding to Bullying and Harassment



- Expect company leadership to demonstrate good social intelligence and communication skills
- Educate staff at all levels about the potential impact and consequences of unwelcome behaviors
- Address the issue of bullying as a type of harassment
- Include disability in workplace inclusion and diversity training
- Create civility codes and expect all to adhere to them
- Be willing to terminate employees who do not adhere to these expectations

Additional Resources



- <http://www.eeoc.gov/laws/types/harassment.cfm> EEOC Harassment Fact Sheet
- <http://workplacebullying.org/multi/pdf/WBI-2014-US-Survey.pdf> WBI 2014 Workplace Bullying Survey

Upcoming Webinar



Trends in Web Accessibility

February 10th, 2016

1:00pm – 2:00pm EST

To register, visit:

<http://www.edi.cornell.edu/register/index.cfm?event=5547>

Thanks to...



Thanks to our Work-Life Balance project collaborators US Business Leadership Network (USBLN) and the American Association of People with Disabilities (AAPD).

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The contents of this presentation were developed under a grant from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR grant number 90DP0071-01-00). NIDILRR is a Center within the Administration for Community Living (ACL), Department of Health and Human Services (HHS). The contents of this presentation do not necessarily represent the policy of NIDILRR, ACL, HHS, and you should not assume endorsement by the Federal Government.

The WLB project is funded by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) Grant # 90IF0051-01-00.



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