



EEOC Receives Record Number of Charges of Discrimination and Secures Highest Amount of Damages in FY 2011

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By [Jeff Nowak](#)

Charges of employment discrimination filed with the Equal Employment Opportunity Commission (EEOC) hit another record level in 2011. According to the EEOC's recently released annual [Performance and Accountability Report](#), the EEOC received 99,947 charges of employment discrimination in fiscal year 2011 (Oct. 1, 2010, through Sept. 30, 2011), which is the largest number of charges ever filed in a fiscal year with the EEOC. Last fiscal year, 99,922 charges were filed with the agency.

EEOC also revealed that it secured a record 10 percent reduction in its backlog of pending cases and \$364.6 million in back pay and penalties paid to alleged victims of workplace discrimination. Notably, the EEOC's mediation program also collected more than \$170 million and resolved 9,831 cases, which is another record.

What Can Employers Take From This Data? At a minimum, employers must grow accustomed to the EEOC's continued emphasis on systemic discrimination as well as the EEOC's approach to investigating charges of discrimination, many of which will result in constant pressure to timely respond to charges and information requests.

Continued Spotlight on Systemic Discrimination

For several years, one of the EEOC's top priorities has been expanding the investigation of systemic discrimination, which has been defined as a "pattern or practice, policy and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company, or geographic location." The EEOC has reemphasized this priority in 2011. At the end of FY 2011, the EEOC was involved in 580 systemic investigations (over 100 more than a year ago), involving more than 2,000 separate charges. There also has been a steady increase in the number of Commissioner charges (47 this year; 39 last year), which are charges initiated by the EEOC, rather than a individual, to investigate discrimination by an employer.

EEOC also continues to litigate according to its stated priorities. In FY 2011, the EEOC filed 261 lawsuits, which totals 11 more lawsuits than the previous year. This included a total of 177 individual lawsuits, 84 "multiple victim" lawsuits (i.e., under 20 charging parties) and 23 systemic discrimination lawsuits. Clearly, the EEOC's interest in the Americans with Disabilities Act continues, as 80 of these lawsuits alleged violations of the ADA. The EEOC also reported that the remaining lawsuits included 162 Title VII claims, 26 Age Discrimination in Employment Act claims and 2 Equal Pay Act claims

Continued Pressure to Respond to Discrimination Charges in Timely Manner

Based on the EEOC's own performance standards, it was expected to resolve 54% of its charges within 180 days. However, at the end of FY 2010, the EEOC had only processed 40.7% of its charges within 180 days. The EEOC blamed the delay on the pending backlog of charges, the increased number of charges and shortage of front line staff. Notably, FY 2011 ended with a pending inventory of 78,136 charges, which is a decrease of 8,202 charges from the year before. This is a marked shift in charge resolution, since decreased EEOC staffing in previous years contributed to significant levels of backlogged cases. According to the EEOC, backlogged cases increased steadily from 2000 to 2008 as the agency's staffing level dropped nearly 30 percent during that period. Since 2009, however, the agency has added more than 200 employees to its staff.

As a result of the EEOC's own performance standards, employers should expect that the agency will exert even more pressure on employers to respond quickly to information requests. Likewise, the agency is unlikely to entertain requests for extensions of time to respond to a charge. Indeed, some EEOC offices have a longstanding policy of not granting extensions for the employer's response to a charge.

More Information

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