

ADA Compliance Guide

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On this 15th anniversary of the passage of the Americans With Disabilities Act, it is appropriate to mark the occasion with a special report that also celebrates the 15th anniversary of the ADA Compliance Guide. The report has articles by some of the people responsible for the law's passage (Tony Coelho) and enforcement (EEOC Chair Cari Dominguez). There are also pieces by those who help employers understand the law (Lana Smart, Judy Young, Ann Reesman, Burt Fishman), accommodate employees (JAN's Mandy Gamble) and by SHRM Chairman Johnny Taylor. Together, the articles provide a picture of the past, present and possible future of the ADA.

The opinions expressed in this special report are the writers' own and not necessarily those of the ADA Compliance Guide. For more information about Thompson, visit our Web site, www.thompson.com

Great Expectations, Mixed Results

By Johnny C. Taylor Jr.

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Fifteen years ago, passage of the ADA was heralded as a great achievement in the struggle for equal rights that would open doors of opportunity to individuals with disabilities and lead to fuller, more productive lives for all Americans.

At the time, business interests harbored reservations about the law, viewing it as a potentially burdensome mandate that would bury employers under an avalanche of paperwork, litigation and unwarranted expense. But their opposition wilted in the face of popular sentiment.

Not surprisingly, the ADA sailed through Congress, passing both the House and Senate by wide vote margins. The law became effective for all employers with more than 25 employees on July 26, 1992. (That number went to 15 employees in 1994.) The burning question is, has the ADA met expectations? The answer depends on whom you ask.

There is broad agreement that the ADA has been overwhelmingly successful in addressing the public accessibility aspects of its charter and the majority of these improvements have been realized at negligible cost. With regard to other aspects of the act – particularly its employment provisions – the wide range of views on the ADA's impact on both the disability community and business is telltale.

People with disabilities believe the ADA has not benefited them in the employment arena. In fact, during the 1990s boom – a time when employers were facing a tight labor market and actively searching for new sources of workers, and while the rest of the nation was enjoying the lowest unemployment rates in decades – the disabled community actually experienced a *decrease* in employment.

That despite the fact that 15 years later, the business community admits that most companies' health, life and disability insurance costs did not increase when disabled workers were hired and accommodation costs have been much less than feared.

Legal costs, however, are another matter. Since the ADA's passage, almost 205,000 charges alleging ADA violations have been filed with the Equal Employment Opportunity Commission (*EEOC Charge Statistics FY 1992 to FY 2004*). A healthy majority (55 percent) were dismissed as having "no reasonable cause."

And even when cases made it through the administrative agency process and became actual litigation in the court system, employers won resoundingly. According to annual surveys by the American Bar Association, employers have prevailed 95 percent of the time since the ADA went into effect. Nevertheless, the cost of all this legal activity adds up.