



Distribution Center MANAGEMENT

March 2013

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From the Golden Zone

EEOC state data shows trends, areas to watch

By Richard D. Alaniz

In each of the past three years, the U.S. Equal Employment Opportunity Commission (EEOC) has received a record-setting number of charges from those claiming employment discrimination: 99,947 in fiscal year 2011. While the final numbers are not yet complete for 2012, it appears that the filings remained consistent.

But what do these national statistics mean for employers? With 15 districts covering the 50 states and U.S. territories, it has been difficult for employers to glean much information about how the EEOC's priorities and actions could affect them directly.

For the first time, the EEOC has revealed how many discrimination charges and which types of charges have been filed in each state and territory since 2009. The information is available on the EEOC website at www1.eeoc.gov/eeoc/statistics/enforcement, and the EEOC has pledged to update the data every year.

Now, instead of just knowing that the EEOC filed 37,334 retaliation claims in 2011, companies can find out exactly how many of those specific types of charges were filed in states where they have a workforce. Why is this important? Because the stakes are high. For instance, in November, Tacoma, WA-based Interstate Distributor Company agreed to pay \$4.85 million to

settle a disability discrimination lawsuit filed by the EEOC. Perhaps if they had been aware that the EEOC has received an average of 410 charges of disability discrimination in Washington each year since 2009, the company could have proactively taken steps to reduce its risk regarding disability claims.

Employers now have more information than ever before about EEOC discrimination charges.

This information can help companies identify the EEOC's priorities in their specific states, then target areas where they may need to increase awareness and training in order to insulate themselves from potential enforcement actions.

The more employers know, the better prepared they can be to head off problems and prevent discrimination charges.

State-by-state statistics

With the state-level data, the EEOC lists information for a variety of different types of discrimination charges: race, sex, national origin, religion, color, retaliation, Title VII of the Civil Rights Act of 1964 retaliation, age, disability, Equal Pay Act of 1963 and the Genetic Information Nondiscrimination Act of 2008 (GINA).

The EEOC website also includes a spreadsheet for each year that lists the total number of charges received in each state, and how that compares to

This article was reprinted from the March 2013 issue of *Distribution Center Management*.

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charges filed nationwide. The EEOC breaks down the number of specific charges filed in each state, the total number filed across the country, the percentage of each state's charges as a total of charges filed across the country and the percentage of each category of charges as part of the state's total.

What to do now

The more employers know about the EEOC's priorities and enforcement actions, the better prepared they can be to head off problems and prevent discrimination charges.

- **Understand Priorities in Your State.**

Employers should review the charge information that the EEOC has made available to understand exactly how many and what types of charges are being brought in the areas where the company has sites and offices.

Companies should compare the statistics to any charges that the EEOC may have brought against it. If a company has a significant number of charges in a state where such claims are fairly rare, employers need to understand why this is happening and how to prevent it in the future.

When reviewing the data, employers should be sure to consult with experts in HR and with their attorneys. There may be a variety of reasons why more types of charges are filed in one state than another. Some of it may be population based, since states with more people and businesses are likely to face more enforcement activity from the EEOC. The economy could also play a role. In states where more businesses are struggling and unemployment is high, employees and former employees may be more likely to pursue charges of perceived

discrimination. Some types of industries, which may be more prevalent in particular states, could receive a disproportionately high number of certain types of discrimination charges.

- **Review information and policies with HR and attorneys.** Companies should also work with internal and external experts to understand how they can use the data to proactively decrease the chances of discrimination charges being filed against their company. They should review policies and training in light of past and current EEOC enforcement activities and make any necessary changes to minimize their exposure, including ensuring that their handbooks are up to date.

- **Look at the bigger picture.** While the EEOC state-by-state data is extremely helpful, employers should consider it as part of a larger risk-management strategy. Companies should regularly review their training policies and refresh educational efforts for new hires, current employees, supervisors, and hiring managers to ensure that they are current with new EEOC enforcement guidance.

It's an old business adage that you can't manage what you can't measure. Thanks to increased transparency by the EEOC, companies can measure the types of discrimination claims most common in the states where they operate. With this type of information, employers can begin to better manage their exposure to potential discrimination claims.

Richard D. Alaniz is senior partner at Alaniz Schraeder Linker Farris Mayes, LLP, a national labor and employment firm based in Houston. He can be reached at (281) 833-2200 or ralaniz@alaniz-schraeder.com. **DCM**

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712 Main Street — Suite 187B, Boonton, NJ 07005-1450

Telephone: (973) 265-2300 • Fax: (973) 402-6056 • Email: info@DistributionGroup.com • Website: www.DistributionGroup.com

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