

# ABA DISABILITY STATISTICS REPORT

-2010-

AMERICAN BAR ASSOCIATION

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*A compilation of statistics on individuals and  
lawyers with disabilities, their employment, and  
the legal profession.*

Commission on  
Mental and Physical



Commission on  
Mental and Physical  
Disability Law

The following is extracted from the ABA Commission on Mental and Physical Disability Law's [2010 Goal III Report](#).

## I. Summary

The American Bar Association, through its Commission on Mental and Physical Disability Law, issues a collection of information regarding statistics on individuals and lawyers with disabilities, their employment, and the legal profession. For 2010, the Commission reports the following highlights:

- ❖ National statistics show that attitudinal and economic barriers for individuals with disabilities lead to extremely low employment rates, especially when compared to individuals without disabilities. The current economic crisis exacerbates the low rate of employment of individuals and lawyers with disabilities.
- ❖ The ABA reports that 6.76% of its members identify themselves as having a disability.
- ❖ The percentage (3.2%) and number (4,941) of the 154,549 law students at ABA-accredited law schools who requested accommodations has increased notably from last year (2.7% and 4,111 respectively).

## II. Introduction

The American Bar Association (ABA) was founded in 1878 by 100 lawyers from 21 states. Today, the ABA has over 380,000 members making it the largest voluntary professional association in the world. The ABA provides law school accreditation, continuing legal education (CLE), information about the law, programs to assist lawyers and judges, and initiatives to improve the legal system for the public. The ABA's primary mission is "[t]o serve equally our members, our profession and the public by defending liberty and delivering justice as the national representative of the legal profession."

To accomplish its mission, the ABA adopted a new set of goals at the 2008 ABA Annual Meeting. Goal III is "[t]o eliminate bias and enhance diversity." An objective of Goal III is to "[p]romote full and equal participation in the association, our profession, and the justice system by all persons." The tenets of Goal III were drawn from its predecessor, the old ABA Goal IX, which was "to promote full and equal participation in the legal profession by minorities, women persons with disabilities, and persons of differing sexual orientations and gender identities." This 2010 report on the status of lawyers with disabilities in ABA leadership positions is an effort to advance Goal III and its ideals.

Stemming from the ABA's long history of promoting reform of the justice system, the ABA established in 1973 the Commission on the Mentally Disabled to focus on the advocacy needs of people

with mental disabilities. After the passage of the Americans with Disabilities Act of 1990, the Commission broadened its mission to serve all people with disabilities, and therefore changed its name to the Commission on Mental and Physical Disability Law (Commission). The Commission's mission is to "promote the ABA's commitment to justice and the rule of law for persons with mental, physical, and sensory disabilities and their full and equal participation in the legal profession."

The Commission is composed of lawyers and other legal professionals, many of whom have disabilities. These members serve on several subcommittees (see Section VIII). Its Subcommittee on Lawyers with Disabilities focuses on issues of importance to those who may have a disability in the legal community. The Commission's Subcommittee on ABA Goal III prepared this report. Through these subcommittees and other programs, the Commission is the only entity within the ABA—and the legal profession—that has a comprehensive focus on all lawyers with disabilities on a national level.

The Goal III survey gathers information about the participation of persons with disabilities, as well as women, racial minorities, and persons who are gay, lesbian, bisexual, or transgender in ABA Division, Section, and Forum leadership positions.

The Commission's 2009-2010 Report presents the survey findings with respect to lawyers with disabilities, along with observations, conclusions and recommendations for the ABA, its leadership, and its staff. In addition, the Report also recognizes ABA

entities that have demonstrated the ABA's commitment to lawyers with disabilities by including them on an annual "Honor Roll." Also included is information about the Commission's publications, special projects, and members, many of whom are lawyers with disabilities.

### **III. The Status of Americans with Disabilities**

This section estimates the number of people with disabilities in the United States, in the workplace, and in the legal profession.

#### **A. People with Disabilities in the United States**

According to the most recent and comprehensive data from the U.S. Census Bureau, in 2005, 54.4 million Americans reported having a disability—nearly one in five (19%)—with 6.5 million reporting a severe disability. For 2007, Cornell University's Rehabilitation Research and Training Center on Disability Demographics and Statistics (Cornell University)—which uses the U.S. Census Bureau's American Community Survey (ACS) data (an interim report for the decennial census)—reported 14.9% of the U.S. population over the age of five as having a disability, with the largest represented type of disability being a "physical disability" (9.4%).

#### **B. People with Disabilities in the Workplace**

##### **i. Recent figures**

Recent statistics and attitudinal barriers in society regarding the employment of persons with disabilities help explain the small number of lawyers with disabilities who are employed in the legal profession. Based on the most recent 2008 ACS numbers, the Rehabilitation Research and Training Center of Disability Statistics and Demographics (Center) reported that there were 18,995,085 Americans with disabilities of working age (18 to 64). However, only 39.1% were working, compared to 77.7% for non-disabled persons. This leaves a large employment gap between the disabled and non-disabled of 38.6 percentage points, with approximately 11,576,000 Americans with disabilities out of work.

For 2007, Cornell University reported that for full-time/full-year jobs 21.2% of working-age persons with disabilities were employed, compared to 56.7% for non-disabled persons. Median annual salaries for disabled workers were 16% less than those for non-disabled workers.

Unfortunately, when individuals with disabilities have lower-than-average incomes, they struggle economically. Shawn Fremstad of the Center for Economic and Policy Research concluded in September 2009 that "[d]isability is both a fundamental cause and consequence of income poverty." He reports that (1) around 50% of all

working-age adults who experience income poverty have a disability; (2) nearly 66% of adults experiencing long-term income poverty have a disability; and (3) individuals with disabilities experience income poverty more than those in any other single minority, ethnic, or racial group. Fremstad noted that people with disabilities have a more difficult time retaining income for necessities due to the substantial cost associated with having a disability (e.g., extra medical bills, purchasing assistive devices) and that these costs rise as the severity of the disability rises. Cornell University, citing the ACS, finds the poverty rate for workers with disabilities was significantly higher (24.7%) than the rate for non-disabled workers (9%).

Statistics regarding employer attitudes and activities are also worth noting. The U.S. Department of Labor's Office of Disability Employment Policy, in a November 2008 report, surveyed a sample of American companies in various industries and of various sizes. The survey found that only 19.1% of the companies surveyed employed individuals with disabilities, and only 13.6% actively recruited people with disabilities. In addition, only 8.7% of the companies surveyed had hired someone with a disability within the past year. Moreover, 72.6% of those companies cited the "nature of work being such that it cannot be effectively performed by a person with a disability," as a hiring challenge.

##### **ii. The economic crisis of 2009-2010**

The current recession has only exacerbated problems for individuals with disabilities. For November 2009, the U.S. Bureau of Labor Statistics (BLS) shows an employment-to-population ratio of 18.4%, the lowest percentage since monthly tracking of this figure began in 2008. The actual employment rate for individuals with disabilities for that month was a staggering 18.4%.

As Joseph Shapiro reported for National Public Radio, during the current job crunch the unemployment rate for those with disabilities is nearly double that of those without disabilities. Moreover, this number may be on the conservative side, because the current data does not consider how many people with disabilities have given up looking for work—a number not even counted in the current data. Finally, the recession's effect on state budgets has led to cuts in the areas typically important to those who are unemployed and have a disability, namely vocational training, post-secondary education assistance, and social services.

## **C. Lawyers with Disabilities in the Legal Profession**

### **i. Recent figures**

To begin with there is a pipeline problem: individuals with disabilities are less likely to apply and be admitted to law school. As described above, there is a strong disability-poverty correlation. Therefore, many of those with disabilities are not even able to finance law school, let alone sustain the

burden of its debt. Moreover, Cornell University reports that for 2007 only 12.5% of working-age persons with disabilities held a Bachelor's degree or higher, compared to 36.9% of non-disabled persons. This education disparity helps explain why so few persons with disabilities become lawyers, as many individuals with disabilities lack the educational background and academic prerequisites to apply to law school.

The ABA conducts an annual census of its lawyer members. According to August 2009 figures, 36,000 of the approximately 383,000 ABA members completed the census questionnaire. Of the 24,524 respondents who answered the query "Do you have a disability?," only 1,658, or 6.76%, answered affirmatively. This number is a slight increase from the 2008 census at 6.69%, but still a decrease from 2007's 7.18%. This percentage is far lower than one would expect given the national statistics on the percentage of Americans with disabilities. Extrapolating this figure to the entire ABA membership, approximately 25,900 members would report having a disability for 2009, a decrease of 1,380 from last year and a decrease of 2,800 from 2007.

Dr. Douglas Kruse of Rutgers University and the National Bureau of Economic Research, using the 2007 ACS microdata, reports an even lower number citing, out of the 1.08 million Americans who are lawyers or judges, magistrates, and other judicial workers, only 3.8% have a reported disability. BLS has its own figure, reporting that for the third quarter of 2009 (July, August, and September), 2.6% of

those employed in the legal occupation (e.g., lawyers, judges, magistrates, law clerks, court reporters, paralegals) had a disability. This figure was slightly lower than the second quarter's 2.9%.

The ABA's Market Research Department attempted to collect relevant statistics on lawyers with disabilities for its National Lawyer Population Survey, but the meager results underscored the need for more comprehensive efforts by the ABA and state and local bar associations. According to the ABA, only 3 of 54 American jurisdictions that license attorneys collect information on lawyers with disabilities. Colorado estimates 0.15%, or approximately 29 lawyers, had a disability; Delaware estimates less than 1%, or 25 lawyers; and South Dakota estimates 1%, or 17 lawyers.

In addition, the Commission believes all of these numbers may be substantially less than the actual number of lawyers with disabilities in the ABA and the profession. Many choose not to answer the question relating to disability status due to confidentiality concerns, while others do not consider themselves as having a disability. These low figures reflect at least four trends: (1) relatively few college students with disabilities attend law school due to factors ranging from lack of funds to problems with attaining accommodations for the Law School Admissions Test; (2) not everyone with a disability who attends graduates or passes the bar; (3) due to socioeconomic factors, it appears that a lower percentage of lawyers with disabilities join the ABA than non-disabled lawyers; and (4) a greater percentage of law school graduates with disabilities

do not find employment as lawyers. Ultimately, however, these figures also reflect the need to have a comprehensive national effort to collect information on lawyers with disabilities.

For 2009-2010, the ABA Office of Legal Education and Admissions to the Bar indicated that of 154,549 law students in ABA-accredited law schools (both J.D. and LL.M students), 4,941 (3.2%) were provided accommodations—up noticeably from 4,111 (2.7%) for 2008. Yet despite such increases, it is worth noting that these figures do not reflect an actual estimate or figure as to how many law students in ABA-accredited law schools have a disability.

The National Association for Law Placement (NALP) conducts an annual survey and study, entitled *Jobs & J.D.'s: Employment and Salaries of New Law Graduates*, on the employment rates of law graduates by gender, minority, and disability. For the class of 2008, 84.4% of 565 law graduates with disabilities were employed, compared to about 90.9% of 28,891 non-minority (men and women) law graduates and 87% of 8,395 minority law graduates. Although the employment rate has decreased for both those with disabilities and those without disabilities, it is important to note that for the class of 2008 there is an overall decrease in the number of 2008 graduates with disabilities compared to the class of 2007: the percentage of law school graduates who are represented in the survey increased 0.6% (from 41,707 to 41,951), yet the number of graduates with disabilities surveyed decreased by 11% (from 638 to 565).

In the same survey, 8.1% of disabled law graduates indicated that they were unemployed and seeking a job—a small rise from the 7.4% reported for 2007—compared to 5.1% for all non-minority law graduates and 6.7% for all minority law graduates. Of the 263 salaries reported by graduates with disabilities, the mean salary was \$80,748 and the median salary was \$60,000. These salaries were considerably lower than the mean and median salaries computed by NALP for men and woman graduates: \$89,540 and \$67,500 (10,463 salaries reported) for women, and \$94,217 and 75,000 (11,803 salaries reported) for men. As in the past two years, NALP again found that “disabled graduates were less likely to obtain jobs in private practice than the class as a whole—and more likely to obtain government and public interest positions.” Yet what is still not known from statistics on law students is what percentage of students with disabilities graduate as opposed to students with no disabilities.

#### ii. The economic crisis of 2009-2010

ion to these woeful statistics is the current economic crisis; and the legal profession is not immune from the recession. According to the ABA Journal, in 2009 large law firms experienced the largest amount of layoffs in history with over 4,600 lawyers laid off. In the past year the legal services industry lost approximately 41,800 jobs.

For law graduates of the class of 2008, NALP reported that the employment of new law graduates

dropped to 89.9%, the first decline since 2003. Also, the legal community saw many of the larger law firms defer the hiring of new associates and overqualified attorneys apply for positions traditionally held by recent law school graduates.

#### D. Disability Diversity in the Legal Profession

The last four ABA presidents have made disability diversity a priority. Past ABA President Michael S. Greco (2006-2007) hosted the first national conference on employing lawyers with disabilities, a groundbreaking event for the legal and disability communities. Past ABA President William H. Neukom (2007-2008), in his ABA Journal's President's Message of November 2007, recognized that, although it is difficult to determine the exact degree that the disabled community is underrepresented in the legal community, it is evident that “[l]awyers with disabilities, too, have greater difficulty getting a job after law school and have higher rates of unemployment than lawyers who do not have disabilities.” He called on the legal profession to embrace the objectives of then-Goal IX in order to root out invidious discrimination.

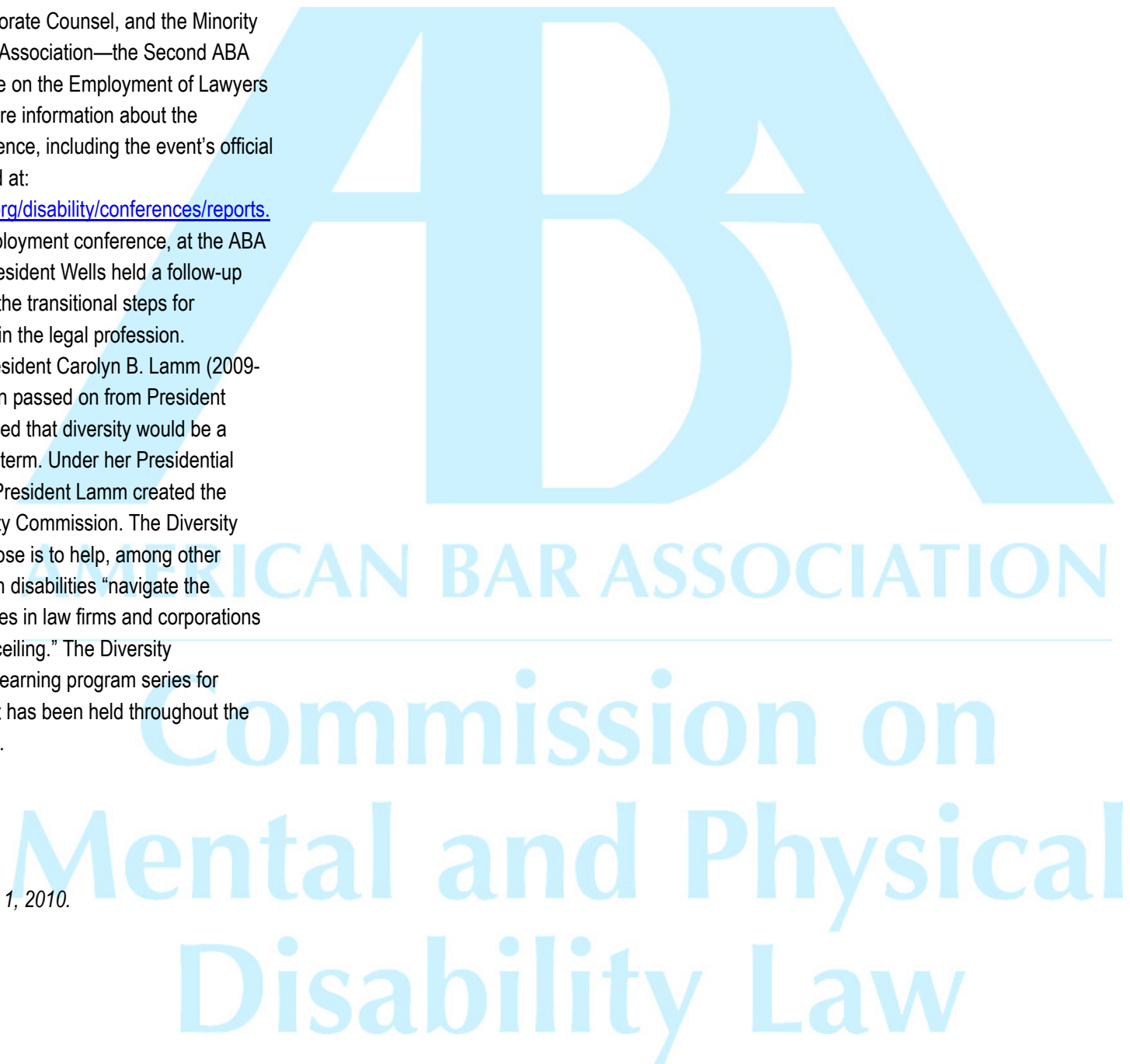
Continuing the ABA's commitment to include lawyers with disabilities, Immediate-Past ABA President H. Thomas Wells, Jr. (2008-2009) hosted a series of programs with ABA leadership on Goal III. The programs culminated at his diversity summit in Washington, DC on June 18-20, 2009. That same week he hosted—along with this Commission, the

Association of Corporate Counsel, and the Minority Corporate Counsel Association—the Second ABA National Conference on the Employment of Lawyers with Disabilities. More information about the employment conference, including the event’s official report, can be found at:

<http://www.abanet.org/disability/conferences/reports.shtml>. After the employment conference, at the ABA Annual Meeting, President Wells held a follow-up meeting to discuss the transitional steps for promoting diversity in the legal profession.

Current ABA President Carolyn B. Lamm (2009-2010) took the baton passed on from President Wells, and announced that diversity would be a central focus of her term. Under her Presidential Diversity Initiative, President Lamm created the Presidential Diversity Commission. The Diversity Commission’s purpose is to help, among other groups, lawyers with disabilities “navigate the cultures and practices in law firms and corporations to pierce the glass ceiling.” The Diversity Commission has a learning program series for diverse lawyers that has been held throughout the 2009-2010 bar year.

*Published February 1, 2010.*



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