

Table of Contents

PART I. FEDERAL DISABILITY STATUTES AND CASES

CHAPTER 1. INTRODUCTION

I. IN GENERAL

§ 1:1 Introduction

CHAPTER 2. APPLICABLE FEDERAL STATUTES

I. CHOICE OF FEDERAL CLAIM

§ 2:1 Generally

II. Americans with Disabilities Act

- § 2:2 Generally
- § 2:3 Title I—Parties
- § 2:4 —Protected conditions
- § 2:5 —Commencing the action
- § 2:6 —Proof burdens
- § 2:7 —Remedies
- § 2:8 ADA Title II
- § 2:9 —Parties
- § 2:10 —Protected conditions
- § 2:11 —Commencing the action
- § 2:12 —Proof burdens
- § 2:13 —Remedies

III. Rehabilitation Act of 1973

- § 2:14 Section 501—Parties
- § 2:15 —Protected conditions
- § 2:16 —Commencing the action
- § 2:17 —Proof burdens

DISABILITY DISCRIMINATION IN EMPLOYMENT

- § 2:18 —Remedies
- § 2:19 Section 503
- § 2:20 —Parties
- § 2:21 —Protected conditions
- § 2:22 —Commencing the Action
- § 2:23 —Proof burdens
- § 2:24 —Remedies
- § 2:25 Section 504
- § 2:26 —Parties
- § 2:27 —Protected conditions
- § 2:28 —Commencing the action
- § 2:29 —Proof burdens
- § 2:30 —Remedies

IV. OTHER FEDERAL REMEDIES

- § 2:31 In general
- § 2:32 Federal remedies for veterans—Uniformed
services Employment and Reemployment Rights
Act
- § 2:33 —Vietnam-Era Veterans’ Readjustment
Assistance Act
- § 2:34 Pregnancy discrimination
- § 2:35 Pregnancy Discrimination Act
- § 2:36 Pregnant Workers Fairness Act
- § 2:37 Family and Medical Leave Act
- § 2:38 —Parties
- § 2:39 —Protected conditions
- § 2:40 — —Leave obligations
- § 2:41 — —Preleave certification
- § 2:42 — —Health insurance obligation
- § 2:43 — —Restoration following leave
- § 2:44 — —Postleave fitness certification
- § 2:45 — —Prohibited discrimination
- § 2:46 — —Recordkeeping and notice obligations
- § 2:47 —Commencing the action
- § 2:48 —Remedies
- § 2:49 42 U.S.C.A. § 1983
- § 2:50 —Parties
- § 2:51 —Protected conditions
- § 2:52 —Commencing the action
- § 2:53 —Proof burdens
- § 2:54 — —“Color of state law”

TABLE OF CONTENTS

§ 2:55	— —Legal right
§ 2:56	— — —Due process
§ 2:57	— — —Equal protection
§ 2:58	— — —Federal statutes
§ 2:59	— —Affirmative defenses
§ 2:60	—Remedies
§ 2:61	Arbitration—Collective bargaining agreement
§ 2:62	—Individual agreement to arbitrate
§ 2:63	Genetic Information Nondiscrimination Act
§ 2:64	Genetic Information Nondiscrimination Act—Parties
§ 2:65	Genetic Information Nondiscrimination Act— Prohibited practices
§ 2:66	Genetic Information Nondiscrimination Act— Commencing the action
§ 2:67	Genetic Information Nondiscrimination Act— Proof burdens
§ 2:68	Genetic Information Nondiscrimination Act—Remedies

CHAPTER 3. DETERMINING OBLIGATIONS

I. IN GENERAL

§ 3:1	Introduction
-------	--------------

II. PROTECTED DISABILITY

§ 3:2	Generally
-------	-----------

III. PHYSICAL AND MENTAL IMPAIRMENTS

§ 3:3	Generally
§ 3:4	—Physical and mental conditions
§ 3:5	—Substantial limitation

IV. PROTECTION WITHOUT CURRENT IMPAIRMENT

§ 3:6	Generally
-------	-----------

V. SUBSTANCE ABUSE

§ 3:7	Generally
-------	-----------

DISABILITY DISCRIMINATION IN EMPLOYMENT

- § 3:8 —Department of defense regulations
- § 3:9 —Department of transportation regulations
- § 3:10 —Enforcement

VI. MEDICAL TESTS AND INQUIRIES

- § 3:11 Generally
- § 3:12 —Medical inquiries and exams generally
- § 3:13 —Medical inquiries and exams respecting safe performance
- § 3:14 — —Direct threat
- § 3:15 — —Job safety standards
- § 3:16 —Special cases
- § 3:17 — —Pregnancy
- § 3:18 —Special Cases—Contagious Disease
- § 3:19 —Special cases—Food handling positions
- § 3:20 —Medical records issues

VII. OTHER EMPLOYEE TESTS

- § 3:21 Generally

VIII. EMPLOYEE BENEFITS

- § 3:22 Generally

CHAPTER 4. ACCOMMODATING DISABILITY

I. IN GENERAL

- § 4:1 Introduction
- § 4:2 Determining essential functions
- § 4:3 Evaluating individual qualifications
- § 4:4 Evaluating accommodation alternatives

CHAPTER 5. HANDLING LITIGATION

I. IN GENERAL

- § 5:1 Commencing the action
- § 5:2 Statutory schemes
- § 5:3 Limitations periods
- § 5:4 Parallel proceedings

TABLE OF CONTENTS

- § 5:5 Remedies
- § 5:6 Appellate review

CHAPTER 6. PROOF BURDENS

- § 6:1 Fundamental models
- § 6:2 Barrier model
- § 6:3 Disparate treatment model
- § 6:4 —McDonnell-Douglas approach
- § 6:5 —Burden-shifting approach
- § 6:6 Disparate impact model
- § 6:7 Affirmative defenses
- § 6:8 Harassment cases
- § 6:9 Retaliation cases
- § 6:10 Medical inquiry cases

CHAPTER 7. LITIGATION STRATEGY

I. IN GENERAL

- § 7:1 Aspects
- § 7:2 Prior administrative proceeding
- § 7:3 Pleadings
- § 7:4 Discovery
- § 7:5 —Supervisor deposition
- § 7:6 —Plaintiff's deposition
- § 7:7 —Physician's deposition
- § 7:8 —Vocational expert deposition
- § 7:9 —Engineer/architect deposition
- § 7:10 —Accountant deposition
- § 7:11 Federal discovery rules
- § 7:12 Trial
- § 7:13 —Plaintiff direct
- § 7:14 —Plaintiff cross
- § 7:15 —Physician direct
- § 7:16 —Physician cross
- § 7:17 —Vocational expert direct
- § 7:18 —Vocational expert cross
- § 7:19 —Engineer/architect direct
- § 7:20 —Engineer/architect cross
- § 7:21 —Supervisor direct
- § 7:22 —Supervisor cross
- § 7:23 —Accountant direct

- § 7:24 —Accountant cross
- § 7:25 Settlements
- § 7:26 Jury issues

PART II. STATE DISABILITY LAWS

CHAPTER 8. STATE DISABILITY LAWS

§ 8:1 Introduction

- APPENDIX AL. Alabama
- APPENDIX AK. Alaska
- APPENDIX AZ. Arizona
- APPENDIX AR. Arkansas
- APPENDIX CA. California
- APPENDIX CO. Colorado
- APPENDIX CT. Connecticut
- APPENDIX DE. Delaware
- APPENDIX DC. District of Columbia
- APPENDIX FL. Florida
- APPENDIX GA. Georgia
- APPENDIX HI. Hawaii
- APPENDIX ID. Idaho
- APPENDIX IL. Illinois
- APPENDIX IN. Indiana
- APPENDIX IA. Iowa
- APPENDIX KS. Kansas
- APPENDIX KY. Kentucky
- APPENDIX LA. Louisiana
- APPENDIX ME. Maine
- APPENDIX MD. Maryland
- APPENDIX MA. Massachusetts
- APPENDIX MI. Michigan
- APPENDIX MN. Minnesota
- APPENDIX MS. Mississippi

TABLE OF CONTENTS

APPENDIX MO.	Missouri
APPENDIX MT.	Montana
APPENDIX NE.	Nebraska
APPENDIX NV.	Nevada
APPENDIX NH.	New Hampshire
APPENDIX NJ.	New Jersey
APPENDIX NM.	New Mexico
APPENDIX NY.	New York
APPENDIX NC.	North Carolina
APPENDIX ND.	North Dakota
APPENDIX OH.	Ohio
APPENDIX OK.	Oklahoma
APPENDIX OR.	Oregon
APPENDIX PA.	Pennsylvania
APPENDIX RI.	Rhode Island
APPENDIX SC.	South Carolina
APPENDIX SD.	South Dakota
APPENDIX TN.	Tennessee
APPENDIX TX.	Texas
APPENDIX UT.	Utah
APPENDIX VT.	Vermont
APPENDIX VA.	Virginia
APPENDIX WA.	Washington
APPENDIX WV.	West Virginia
APPENDIX WI.	Wisconsin
APPENDIX WY.	Wyoming

APPENDICES

APPENDIX A.	Americans with Disabilities Act
APPENDIX B.	Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act—29 C.F.R. Part 1630
APPENDIX C.	Rehabilitation Act of 1973 (29 U.S.C.A. §§ 705, 728a, 791, 793 to 794a)

DISABILITY DISCRIMINATION IN EMPLOYMENT

- APPENDIX D. Family and Medical Leave Act
- APPENDIX E. 29 C.F.R. Part 825—The Family and
Medical Leave Act of 1993
- APPENDIX F. Employee Rights Under the Family and
Medical Leave Act Poster

Table of Cases

Index