

Preface

This book is intended to provide a comprehensive overview of most of the major laws relating to discrimination against individuals with disabilities. Before the late 1980s and early 1990s, few law schools had comprehensive courses on disability law, although some of the issues were covered in courses related to employment law and mental health law. The major topics not addressed in depth in this book relate primarily to entitlements and benefits, such as Social Security and workers' compensation. Also not covered are many of the issues relating to individuals with mental disabilities. While discrimination issues for that population are discussed, the topics related to competency, right to treatment, right to refuse treatment, and deinstitutionalization are not addressed to a great extent. These issues merit coverage in separate books and courses.

The book includes selected cases, problems, questions, and statutory and regulatory references. The notes are designed to highlight additional cases of interest, while the questions are intended to provoke thought about unresolved and complex issues. While there may be case citations following some of the problems, it is essential to note that these may represent only one jurisdiction's view of the issue raised by the problem.

This new edition of the casebook includes important updating and new materials designed to focus students on the important issues in disability law. Now that the Americans with Disabilities Act Amendments Act (ADAAA) has gone into effect, it is important for lawyers and law students to understand the changes the amendments made in both the Americans with Disabilities Act and the Rehabilitation Act. This edition includes several sections that analyze the ADAAA and its effect on the interpretation of the ADA and the Rehabilitation Act. While all the chapters deal with the ADAAA, [Chapter 2](#) explains and analyzes the new amendments in depth.

The new edition also offers a number of features that should make the book more user-friendly and should enable students to further their understanding of the law. First, besides the questions and notes following the case materials, each chapter has a number of hypothetical problems that are introduced at the beginning of the material to be studied. Students are encouraged to read the hypothetical problems and to consider the questions in the hypothetical problems as they read the material in the text. After studying the materials, students and faculty members should discuss the hypothetical in order to assure that the students have gained a working knowledge of the law and analysis.

Second, each chapter begins with an Introduction and Overview, Chapter Goals, and a list of Key Concepts and Definitions. Each chapter ends with a Summary. Students should read each of these sections first before returning to the beginning of the chapter to read it again.

Third, the new edition also has information about many up-to-date issues that affect persons with disabilities. It includes discussions of the Genetic Information Nondiscrimination Act (GINA), the Mental Health Parity and Addiction Equity Act, (MHPAEA), the Lilly Ledbetter Act, the recent debate on national health care reform and the Affordable Care Act (ACA). It also includes a chart designed to explain the basics of the Americans with Disabilities Act, the Family and Medical Leave Act and the state worker's compensation statutes.

[Chapter 3](#), the chapter on employment and disabilities, is expanded to include further materials on burdens of proof and persuasion in the areas of reasonable accommodation and undue hardship, the different proof models in employment discrimination law, disability-related hostile work environment and retaliation claims.

[Chapter 7](#), covering education, adds the 2009 Supreme Court decision in *Forest Grove School*

District v. T.A. which clarifies the issue of reimbursement for unilateral placement.

Chapter 9, the chapter on health care and insurance, has an expanded section on health insurance and Title III and includes discussion of the Genetic Information Nondiscrimination Act, the Mental Health Parity and Addiction Equity Act, and the Affordable Care Act.

In an overview course on this topic, it is difficult to address in depth all of the legal issues affecting individuals with disabilities. These materials focus on issues of rights and nondiscrimination in the areas of employment, governmental programs and services, public accommodations (by private providers), higher education, education, housing, and health care. As is evident in reading the materials, some areas (such as education and employment) have an enormous body of case law. Others (such as housing and health care) have been more recently developing.

The importance of awareness of these issues has never been greater. With the 1990 passage of the Americans with Disabilities Act (which affects almost all aspects of society), problems with access to health care, and the 2008 amendments to the ADA, it is critical that members of the legal profession, as well as many social service providers and educators, have a working knowledge of this important area of law.

“String” citations and non-quote source citations have been omitted from cases without any note of their omission. Many of the cases are not the full opinion, and material has been omitted in many instances without notation within the case. Some material is not indented and blocked in the same format as the original. The reader should check the full case report when doing research in reliance on the decision.

Because disability law is an evolving area of law, it is essential that reliance on the precedents and materials in this book be followed up by research on the current status in each area.

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August 2016