Index

```
[References are to pages.]
               A
Accessibility Rights
   Air Carrier Access Act
       Public accommodations law, enforcement of, 342
       Statutory basis, 47
   Architectural barriers (See Architectural Barriers)
   Judicial system, access to (See Judicial System, Access to)
   Voting, equal access to (See Voting, Equal Access to)
ADA (See Americans With Disabilities Act (ADA))
Air Carrier Access Act
   Public accommodations law, enforcement of, 342
   Statutory basis, 47
Americans With Disabilities Act (ADA)
   Architectural barriers and, 360
   Benefits statutes, interaction with
       Generally, 229
   Diseases, contagious or infectious; Title I protections for (See Title I Protections)
   Drug and alcohol addiction, Title I protections for (See Title I Protections)
   Education-related protections (See Reasonable Accommodation, subhead: Education-related
   protections)
   Employment-related protections, enforcement of, 241
   Exemptions from ADA
       Leased space, 320
       Mixed use residential facilities, 319
       Parent/subsidiary responsibility, 321
       Private clubs, 318
       Private homes, 322
       Religious entities, 317
       Smoking
         Generally, 322
         Emery v. Caravan of Dreams, 322
         Staron v. McDonald's Corp., 326
   Family and Medical Leave Act (FMLA), interaction with, 230
   Governmental programs and services, enforcement of, 355
   Higher education-related protections, 416
   National Labor Relations Act, interaction with
       Generally, 235
   Public accommodations
       Enforcement, 340
       Exemptions from ADA (See subhead: Exemptions from ADA)
```

```
Statutory basis, 41
   Title I protections (See Title I Protections)
Architectural Barriers
   Accessibility requirements
       Generally, 300
       Alterations
         Generally, 301
         Kinney v. Yerusalim, 301
       Existing facilities
         Pinnock v. International House of Pancakes, 308
   Americans with Disabilities Act (ADA), 360
   Architectural Barriers Act (See Architectural Barriers Act)
   Governmental programs and services
       Americans with Disabilities Act, 360
       Architectural Barriers Act, 360
       Rehabilitation Act of 1973, 360
   Healthcare-related facilities and services
       Generally, 698
       Aikins v. St. Helena Hospital, 701
       Mayberry v. Von Valtier, 709
   Higher education-related protections
       Generally, 497
       Coleman v. Zatechka, 498
   Housing and independent living, protections for
       Generally, 634
       Congdon v. Strine, 639
       Lincoln Realty Management Co. v. Pennsylvania Human Relations Commission, 635
   Public accommodations
       Generally, 292
       Accessibility requirements (See subhead: Accessibility requirements)
       Covered facilities
         Generally, 292
         Fielder v. American Multi-Cinema, Inc., 295
       New construction
         Generally, 315
         Paralyzed Veterans of America v. Ellerbe Becket Architects and Engineers, 315
   Rehabilitation Act of 1973, 360
   Self evaluation and transition plans
       Generally, 362
       Tyler v. City of Manhattan, 362
Architectural Barriers Act
   Governmental programs and services
       Application to, 360
       Enforcement of, 356
Automobile and Driver Licensing, Equal Access to (See Driving and Parking, Equal Access
Auxiliary Aids and Services (See Reasonable Accomodations)
```

```
\mathbf{C}
```

```
Constitutional Protections
   City of Cleburne v. Cleburne Living Center, 32
   Heller v. Doe, 39
Driving and Parking, Equal Access to
   Generally, 387
   Automobile licensing
      Generally, 388
   Driver licensing
      Generally, 388
   Highway access, 391
   Parking access
      Generally, 391
      Reasonable accommodation (See Reasonable Accommodation)
   Taxicab service, 391
               \mathbf{E}
Education-Related Protections
   Generally, 515
   Americans with Disabilities Act (ADA), reasonable accommodation under (See Reasonable
   Accommodation, subhead: Education-related protections)
   Enforcement
      Generally, 600
   Higher education (See Higher Education-Related Protections)
   Historical perspective
      Generally, 515
      Smith v. Robinson, 522
   IDEA protections (See Individuals with Disabilities Education Act (IDEA))
   Section 504 of Rehabilitation Act, reasonable accommodation under (See Reasonable
   Accommodation, subhead: Education-related protections)
   Section 1983 actions and students with disabilities
      Generally, 593
      Manecke v. School Board, 594
Employment-Related Protections
   Adverse employment actions and, 218
   Benefits statutes, interaction of ADA and (See Americans With Disabilities Act (ADA), subhead:
   Benefits statutes, interaction with)
   Conditions of employment (See subhead: Wages, hours and conditions of employment)
   Constructive discharge (See subhead: Disparate impact or treatment and constructive discharge)
   Constructive discharge and, 218
   Customer and coworker preference, qualification based on
      Barth v. Gelb. 179
      Kathleen Borkowski v. Central Valley School District, 183
      Vande Zande v. Wisconsin Department of Administration, 191
   Defenses
      Eleventh Amendment Immunity, 228
```

```
Employee misconduct, 227
Direct threat to job
   Chandler v. City of Dallas, 170
   Mauro v. Borgess Medical Center, 163
Disparate treatment and disparate impact, 131
Enforcement
   Generally, 238
   Civil Rights Act of 1964, 243
   Hiring qualifications
     Generally, 101
      Medical exams (See Medical Examinations Related to Employment)
   Lilly Ledbetter Fair Pact Act of 2009, 243
   Section 501 of Rehabilitation Act, 238
   Section 503 of Rehabilitation Act. 239
   Section 504 of Rehabilitation Act
      Generally, 239
     Lane v. Pena, 240
   Title II of ADA, 242
   Title I of ADA, 241
Essential aspects of job (See subhead: Fundamental and essential aspects of job)
Family and Medical Leave Act (FMLA), relationship between ADA and, 230
Fundamental and essential aspects of job
   Attendance requirements
      Humphrey v. Memorial Hospitals Association, 149
      Tyndall v. National Education Centers, 141
   Competence, professional and technical, 165
   Coping with stress
     Johnston v. Morrison, Inc., 156
   Employer-provided leaves, 155
   Marginal function, 162
Harassment, disability based
   Generally, 221
   Quiles-Quiles v. Henderson, 222
   Retaliation, 222
Hiring qualification, ADA- and Rehabilitation Act-related standards for
   Generally, 101
   Medical exams (See Medical Examinations Related to Employment)
Hours of employment (See subhead: Wages, hours and conditions of employment)
Major life activities, 48
Medical exams (See Medical Examinations Related to Employment)
National Labor Relations Act, relationship between ADA and
   Generally, 235
Qualifications
   Customer and coworker preference (See subhead: Customer and coworker preference,
   qualification based on)
   Direct threat (See subhead: Direct threat to job)
   Fundamental and essential aspects (See subhead: Fundamental and essential aspects of job)
```

```
Raytheon Co. v. Hernandez, 134
   Reasonable accommodation (See Reasonable Accommodation)
   Rehabilitation Act of 1973, enforcement powers of (See Rehabilitation Act of 1973)
   Title I of ADA (See Title I Protections)
   Undue hardship (See Reasonable Accommodation)
   Wages, hours and conditions of employment
      Generally, 123
       U.S. EEOC v. AIC Security Investigations, Ltd., 124
Fair Housing Act
   Statutory basis, 46
Family and Medical Leave Act (FMLA)
   Americans with Disabilities Act (ADA), interaction with, 251
FMLA (See Family and Medical Leave Act (FMLA))
               G
Governmental Programs and Services
   Generally, 345
   Architectural barriers (See Architectural Barriers)
   Automobile and driver licensing (See Driving and Parking, Equal Access to)
   Driving and parking, related to (See Driving and Parking, Equal Access to)
   Enforcement
      Generally, 355, 409
      Americans with Disabilities Act, 360, 410
      Architectural Barriers Act, 360; 410
      Immunity issues
         Generally, 411
         Tennessee v. Lane, 355; 411
      Section 504 of Rehabilitation Act, 360; 410
   Highways, equal access to, 391
   Immunity issues
      Tennessee v. Lane, 411
   Judicial system, access to (See Judicial System, Access to)
   Licensing practices
      Generally, 370
      Automobile and driver licensing (See Driving and Parking, Equal Access to)
      Licenses to do business
         Generally, 371
         Tyler v. City of Manhattan, 371
      Professional licensing (See subhead: Professional licensing)
   Mass transit (See Mass Transit)
   Modification of rules, policies and practices
      Generally, 355
      Crowder v. Kitagawa, 355
   Nondiscrimination
      Generally, 349
      Federal government programs, 349
```

```
State and local government programs
         Generally, 349
         Concerned Parents to Save Dreher Park Center v. City of West Palm Beach, 351
   Parking, equal access to, 391
   Professional licensing
       Generally, 373
       Accommodations
         Character and fitness inquiries, 376
         Licensing exams, 373
       Applicants v. The Texas State Board of Law Examiners, 378
   Taxicab services, equal access to, 391
   Voting
       Generally, 403
       Lightbourn v. County of El Paso, Texas, 404
   Voting, equal access to (See Voting, Equal Access to)
               Н
Health Care-Related Protections
   Generally, 667
   Architectural barriers, reasonable accommodation related to (See Architectural Barriers)
   Auxiliary aids and services, 698
   Health insurance
       Generally, 716
   Nondiscrimination in health care services
       Generally, 671
       Bowen v. American Hospital Ass'n, 672
       Bragdon v. Abbott, 691
       In re Baby K, 682
   Reasonable accommodation related to architectural barriers (See Architectural Barriers)
Health-Related Protections
   Care-related protections (See Health Care-Related Protections)
   Hiring qualification, medical exams related to (See Medical Examinations Related to
   Employment)
   Reasonable accommodation
       Architectural barriers (See Architectural Barriers)
       Mental health-related disabilities (See Reasonable Accommodation)
Higher Education-Related Protections
   Generally, 417
   Admissions
       Generally, 424
       Documenting and identifying the disability, 450
       Halasz v. University of New England, 426
       Pushkin v. Regents of the University of Colorado, 433
       Qualifications, determining, 425
       Standardized testing, 443
   Americans with Disabilities Act, 423
   Architectural barriers, related to (See Architectural Barriers)
   Athletics
```

```
Generally, 491
   Behavioral and conduct issues
       Generally, 479
       Doe v. New York University, 480
   Conduct issues (See subhead: Behavioral and conduct issues)
   Confidentiality issues
       Generally, 494
       Doe v. Southeastern University, 495
   Disqualification, obligations after
       Generally, 487
       Anderson v. University of Wisconsin, 488
   Enrolled students
       Generally, 457
       Auxiliary aids and services
         Generally, 457
         U.S. v. Board of Trustee for Univ. of Alabama, 458
       Modifications of requirements
         Guckenberger v. Boston University, 470
         McGregor v. Louisiana State Univ. Board of Supervisors, 467
   Evaluation, 443
   Identification and documentation of disability
       Generally, 450
       Nathanson v. Medical College of Pennsylvania, 451
   Other programming
       Generally, 493
   Reasonable accommodation (See Reasonable Accommodation)
   Rehabilitation Act of 1973, 421
   School Board of Nassau County v. Arline, 73
   Southeastern Community College v. Davis, 69
   Standardized testing
       Generally, 443
       Wynne v. Tufts University School of Medicine, 443
Historical Background on Disability Law
   Generally, 1
   Alexander v. Choate, 14
   Constitutional protections (See Constitutional Protections)
   Framework for study of, 27
   Helen L. v. Didaro, 23
   Numerical data on person with disabilities, 8
   Statutory protections (See Statutory Protections)
Housing and Independent Living
   Generally, 605
   Architectural barriers (See Architectural Barriers)
   Discrimination
       Generally, 611
       Baxter v. City of Belleville, 611
   Enforcement, 664
```

```
Fair Housing Act, statutory basis for, 41
   Least restrictive environment
       Generally, 644
       City of Edmonds v. Oxford House, Inc., 657
       Familystyle v. City of St. Paul, 653
       Olmstead v. L.C., 645
       Oxford House-C v. City of St. Louis, 662
   Reasonable accommodation (See Reasonable Accommodation)
   Structural barriers (See Architectural Barriers)
IDEA (See Individuals with Disabilities Act (IDEA))
Individuals with Disabilities Education Act (IDEA)
   Generally, 527
   Appropriate education
       Generally, 527
       Board of Education v. Rowley, 529
   Disciplinary removal—denial of services
       Generally, 559
       Honig v. Doe, 560
   Dispute resolution, education during
       Generally, 568
       Burlington School Committee v. Department of Education, 568
       Florence County School District Four v. Carter, 573
       Forest Grove School District v. T.A., 575
   Least restrictive environment—mainstreaming
       Murray v. Montrose County School District, 555
       Sacramento City Unified School District v. Rachel H., 550
   Mainstreaming (See subhead: Least restrictive environment—mainstreaming)
   Related services
       Generally, 539
       Cedar Rapids Community School District v. Garret F., 544
       Irving Independent School District v. Tatro, 540
   Statutory basis, 47
   Students not covered by IDEA
       Generally, 580
       Doe v. Belleville Public School District, 580
Judicial Interpretations
   Exemptions for stated conditions, 62
   Major life activities, 42
   Record of impairment, 57
   "Regarded as" having impairment, 57
   Special situations, 62
   Substantially limited, 48
Judicial System, Access to
   Generally, 391
```

```
Criminal justice system
      Generally, 397
      Pennsylvania Dept. of Corrections v. Yeskey, 397
   Juries, participation on
      Generally, 391
      Galloway v. Superior Court, 392
               L
Least Restrictive Environment
   Education-related settings (See Individuals with Disabilities Education Act (IDEA))
   Housing and independent living situations (See Housing And Independent Living)
               M
Mass Transit
   Generally, 385
Medical Examinations Related to
Employment
   Posthiring exams
      Conroy v. New York State Dept. of Correctional Services, 116
      Roe v. Chevanne Mountain Conference Resort, Inc., 120
   Preemployment exams
      Generally, 102
      Stutts v. Freeman, 103
   Preplacement examinations
      Generally, 108
      Leonel v. American Airlines, 109
Mental Health-Related Protections
   Reasonable accommodation (See Reasonable Accommodation)
               N
National Labor Relations Act
   Americans with Disabilities Act (ADA), interaction with
      Generally, 235
               P
Persons Protected Under Disability Laws
   Constitutional perspectives (See Constitutional Protections)
   Statutory law (See Statutory Protections)
Public Accommodations
   Generally, 247
   Accessibility requirements (See Architectural Barriers, subhead: Accessibility requirements)
   Air transportation
      Generally, 329
      Air Carrier Access Act, enforcement protections of, 342
      Tallarico v. Trans World Airlines, Inc., 332
       U.S. Dept. of Transportation v. Paralyzed Veterans of America, 330
   Americans with Disabilities Act (ADA) (See Americans with Disabilities Act (ADA))
   Architectural barriers (See Architectural Barriers)
   Enforcement
```

```
Air Carrier Access Act, 342
       Americans with Disabilities Act (ADA), 340
       Exemptions related to ADA (See Americans with Disabilities Act (ADA))
       Telecommunications, 342
   Modification of policies, practices and procedures
       Generally, 277
       Breece v. Alliance Tractor-Trailer Training II, Inc., 278
       Roberts v. Kindercare Learning Centers, Inc., 287
   Nondiscrimination
       Generally, 274
       Anderson v. Little League Baseball, Inc., 274
   Parker v. Metropolitan Life Insurance Co., 254
   PGA Tour, Inc. v. Casey Martin, 260
   Spector v. Norwegian Cruise Line, Inc., 268
   Telecommunications
       Generally, 337
       Enforcement, 342
       Internet and other Web-based communications, 339
       Telephones, 337
       Television and other audiovisual communication, 338
Reasonable Accommodation
   Adverse employment actions and, 218
   Architectural barriers (See Architectural Barriers)
   Auxiliary aids and services, 287
   Constructive discharge and, 218
   Defined, 69
   Education-related protections
       Generally, 579
       Higher education-related protections (See subhead: Higher education-related protections)
       Students not covered by IDEA
         Generally, 579
         Doe v. Belleville Public School District, 580
       Substantive application
         Bechtel v. East Pennsylvania School District, 590
         Pottgren v. Missouri State High School Activities Ass'n, 584
         Wolff v. South Colonie Central School District, 588
   Employment-related protections
       Generally, 176
       Health impairments
         Generally, 195
         Huber v. Howard County, Maryland, 195
       Interactive process, duty to engage in
         Generally, 215
         Humphrey v. Memorial Hospitals Association, 215
       Job restructuring and reassignment
         Generally, 205
```

```
Huber v. Wal-Mart Stores, Inc., 211
         U.S. Airways, Inc. v. Barnett, 206
       Physical impairments
         Generally, 199
         Lyons v. Legal Aid Society, 199
   Higher education-related protections
       Generally, 69
       School Board of Nassau County v. Arline, 73
       Southeastern Community College v. Davis, 69
   Housing and independent living
       Generally, 605
       Animals
         Crossroads Apartments Ass'n v. Leboo, 631
       Mental health and substance abuse
         Generally, 628
         City Wide Associates v. Penfield, 629
       Parking (See subhead: Parking, equal access to)
   Mental health-related impairments
       Housing and independent living (See subhead: Housing and independent living)
   Parking, equal access to
       Generally, 620
       Shapiro v. Cadman Towers, Inc., 620
   Professional licensing
       Character and fitness inquiries, 376
       Licensing exams, 373
   Structural barriers (See Architectural Barriers)
Rehabilitation Act of 1973
   Architectural barriers, 360
   Diseases, contagious or infectious; protections for (See subhead: Drug/alcohol addiction or
   contagious/infectious diseases, protections for)
   Drug/alcohol addiction or contagious/infectious diseases, protections for
       Generally, 91
       Maddox v. University of Tennessee, 93
   Education-related protections (See Reasonable Accommodation, subhead: Education-related
   protections)
   Employers covered by
       Generally, 80
   Employment-related protections, enforcement of
       Hiring qualifications
         Generally, 101
         Medical exams (See Medical Examinations Related to Employment)
         Section 501, 238
         Section 503, 239
         Section 504
            Generally, 239
            Lane v. Pena, 240
   Higher education-related protections, 360
```

```
Section 501, employment-related protections in, 238
   Section 503, employment-related protections in, 239
   Section 504 protections
       Education-related protections (See Reasonable Accommodation, subhead: Education-related
      protections)
       Employment-related protections, enforcement of
         Generally, 239
         Lane v. Pena, 240
       Governmental programs and services, enforcement of, 355
   Statutory basis, 45
   Three-part test, applicability of, 85
               S
Statutory Protections
   Air Carrier Access Act, 47
   Americans with Disability Act (ADA), 40
   Fair Housing Act, 46
   Individuals with Disabilities Education Act (IDEA), 47
   Rehabilitation Act of 1973, 45
Structural Barriers (See Architectural Barriers)
Telecommunications
   Public accommodation protections (See Public Accommodations)
Title I Protections
   Drug/alcohol addiction or contagious/infectious diseases
       Maddox v. University of Tennessee, 93
   Employers covered by
       Generally, 77
   Enforcement powers, 241
   Three-part test, applicability of, 85
               V
Voting, Equal Access to
   Generally, 403
   Lightbourn v. County of El Paso, Texas, 404
```