# **Table of Contents**

**Table of Cases** 

**Preface** 

**Acknowledgments** 

# **Chapter 1 · Introduction**

- A. Overview
  - [1] The People and Their Stories
  - [2] Chapter Goals
- B. How Many People Have Disabilities?
- C. The Laws and How They Developed

Alexander v. Choate

Helen L. v. Didario

History of the ADA Amendments Act of 2008

- D. Framework for Analyzing Problems and Issues
- E. Summary

#### Chapter 2 · Who Is Protected under the Laws? Historical and Contemporary Perspectives

- A. Introduction and Overview
  - [1] Chapter Goals
  - [2] Key Concepts and Definitions
- B. Constitutional Protections

City of Cleburne v. Cleburne Living Center, Inc.

Heller v. Doe

- C. Defining Disability: Statutory Definitions and Judicial Interpretations
  - [1] Statutory Definitions
  - [2] Prong One: A Physical or Mental Impairment That Substantially Limits a Major Life Activity
  - [3] Prong Two: A Record of Such an Impairment
  - [4] Prong Three: Being "Regarded as" Having Such an Impairment

Hypothetical Problems Applying the ADAAA

Notes on Other Issues Concerning Definition of Disability

- [5] Exemptions for Stated Conditions
- [6] Special Situations
- D. Otherwise Qualified and Reasonable Accommodation

Southeastern Community College v. Davis

School Board of Nassau County v. Arline

E. Summary

#### **Chapter 3 · Employment**

- A. Introduction and Overview
  - [1] Chapter Goals
  - [2] Key Concepts and Definitions
- B. Applicability of Title I of the Americans with Disabilities Act and the Rehabilitation Act

- [1] Which Employers Are Covered?
- [2] Applicability of the Three-Prong Definition of Disability to Employment
- [3] Drug and Alcohol Users and Persons with Contagious and Infectious Diseases

Hypothetical Problem 3.1

Maddox v. University of Tennessee

C. Qualification Standards under the ADA and Rehabilitation Act: Technical Standards and Medical Examinations at the Hiring Stage

Hypothetical Problem 3.2

[1] Preemployment

Stutts v. Freeman

[2] Preplacement Examinations

Leonel v. American Airlines

[3] Posthiring

Conroy v. New York State Dept. of Correctional Services

Roe v. Cheyenne Mountain Conference Resort, Inc.

- D. What Constitutes Discrimination?
  - [1] Prohibited Activities Related to Wages, Hours, and Conditions of Employment

U.S. Equal Employment Opportunity Commission v. AIC Security Investigations,

[2] Disparate Treatment and Disparate Impact

Hypothetical Problem 3.3

Raytheon Co. v. Hernandez

- E. Qualifications
  - [1] Fundamental and Essential Functions
    - [a] Attendance Requirements

Tyndall v. National Education Centers

Humphrey v. Memorial Hospitals Association

- [b] Employer-Provided Leaves
- [c] Working Overtime
- [d] Coping with Stress

Johnston v. Morrison, Inc.

- [e] Professional and Technical Competence
- [f] Marginal Functions
- [2] Direct Threat

Hypothetical Problem 3.4

Mauro v. Borgess Medical Center

Chandler v. City of Dallas

F. Reasonable Accommodation and Undue Hardship

Hypothetical Problem 3.5

[1] Proving that the Plaintiff Is a Qualified Individual, Reasonable Accommodation, and Undue Hardship

Barth v. Gelb

Borkowski v. Valley Central School District

Vande Zande v. Wisconsin Department of Administration

[2] Health Impairments and Reasonable Accommodations

Huber v. Howard County, Maryland

[3] Physical Impairments and Reasonable Accommodations

Lyons v. Legal Aid Society

- [4] Mental Impairments and Reasonable Accommodation
- [5] Job Restructuring and Job Reassignment

Hypothetical Problem 3.6

U.S. Airways, Inc. v. Barnett

Huber v. Wal-Mart Stores, Inc.

[6] Duty to Engage in Interactive Process

Hypothetical Problem 3.7

Humphrey v. Memorial Hospitals Association

- [7] Adverse Employment Actions, Constructive Discharge and Reasonable Accommodation
- G. Disability-Based Harassment and Retaliation

Hypothetical Problem 3.8

- [1] Disability-Based Harassment
- [2] Retaliation

Quiles-Quiles v. Henderson

- H. Defenses
  - [1] Employee Misconduct
  - [2] Eleventh Amendment Immunity
- I. Relationship of ADA to Other Federal and State Laws
  - [1] Benefits Statutes
  - [2] Family and Medical Leave Act
  - [3] National Labor Relations Act
  - [4] Genetic Information Nondiscrimination Act (GINA)

**EEOC Regulations** 

GINA, the ADA, and the ADAAA

- [5] Mental Health Parity and Addiction Equity Act
- J. Enforcement
  - [1] Section 501 of the Rehabilitation Act
  - [2] Section 503 of the Rehabilitation Act
  - [3] Section 504 of the Rehabilitation Act

Lane v. Pena

[4] Title I of the Americans with Disabilities Act

Arbitration Clauses and the ADA

- [5] Title II of the Americans with Disabilities Act
- [6] Civil Rights Act of 1964

Lilly Ledbetter Fair Pay Act of 2009

- [7] Other Remedies Issues
- K. Summary

# **Chapter 4 · Public Accommodations**

- A. Introduction and Overview
  - [1] Chapter Goals
  - [2] Key Concepts and Definitions

Hypothetical Problem 4.1

Parker v. Metropolitan Life Insurance Co.

PGA Tour, Inc. v. Casey Martin

Spector v. Norwegian Cruise Line Ltd.

B. Nondiscrimination

Anderson v. Little League Baseball, Inc.

#### C. Reasonable Accommodations

[1] Modification of Policies, Practices, and Procedures

Breece v. Alliance Tractor-Trailer Training II, Inc.

[2] Auxiliary Aids and Services

Roberts v. Kindercare Learning Centers, Inc.

### D. Architectural Barriers

[1] Covered Facilities

Fiedler v. American Multi-Cinema, Inc.

- [2] Accessibility Requirements
  - [a] Alterations

Kinney v. Yerusalim

[b] Existing Facilities

Pinnock v. International House of Pancakes

[c] New Construction

Paralyzed Veterans of America v. Ellerbe Becket Architects & Engineers

# E. Exemptions from the ADA and Special Situations

- [1] Religious Entities
- [2] Private Clubs
- [3] Mixed Use Residential Facilities
- [4] Leased Space
- [5] Parent/Subsidiary Responsibility
- [6] Private Homes
- [7] Smoking

Emery v. Caravan of Dreams

Staron v. McDonald's Corp.

### F. Air Transportation

United States Department of Transportation v. Paralyzed Veterans of America

Tallarico v. Trans World Airlines, Inc.

Hypothetical Problem 4.2

#### G. Telecommunications

- [1] Telephones
- [2] Television and Other Audiovisual Communication
- [3] Internet and Other Web-Based Communication

#### H. Enforcement

- [1] Americans with Disabilities Act
- [2] Air Carrier Access Act
- [3] Telecommunications Enforcement
- I. Summary

# **Chapter 5 · Governmental Services and Programs**

- A. Introduction and Overview
  - [1] Chapter Goals
  - [2] Key Concepts and Definitions
- B. Nondiscrimination
  - [1] Federal Government Programs
  - [2] State and Local Government Programs

Hypothetical Problem 5.1

Concerned Parents to Save Dreher Park Center v. City of West Palm Beach

C. Modification of Rules, Policies, and Practices

Crowder v. Kitagawa

#### D. Architectural Barriers

- [1] Application of the Architectural Barriers Act, the Rehabilitation Act, and the Americans with Disabilities Act
- [2] Self-Evaluation and Transition Plans

Tyler v. City of Manhattan

# E. Licensing Practices

Hypothetical Problem 5.2

[1] Licenses to Do Business

Tyler v. City of Manhattan

- [2] Professional Licensing
  - [a] Licensing Exam Accommodations
  - [b] Character and Fitness Inquiries

Applicants v. The Texas State Board of Law Examiners

- F. Mass Transit
- G. Driving and Parking
  - [1] The Driver's License
  - [2] The Automobile
  - [3] Parking and Highways
  - [4] Taxicab Service
- H. Access to Justice
  - [1] Participation on Juries

Galloway v. Superior Court

[2] Criminal Justice System

Hypothetical Problem 5.3

Pennsylvania Department of Corrections v. Yeskey

I. Voting

Lightbourn v. County of El Paso, Texas

- J. Enforcement
  - [1] Americans with Disabilities Act
  - [2] Section 504 of the Rehabilitation Act
  - [3] The Architectural Barriers Act
  - [4] Immunity Issues

Tennessee v. Lane

K. Summary

### **Chapter 6 · Higher Education**

- A. Introduction and Overview
  - [1] Chapter Goals
  - [2] Key Concepts and Definitions
- B. Nondiscrimination in Higher Education
  - [1] The Rehabilitation Act of 1973
  - [2] The Americans with Disabilities Act
- C. Admissions

Hypothetical Problem 6.1

[1] Determining Qualifications

Halasz v. University of New England

Pushkin v. Regents of the University of Colorado

[2] Standardized Testing and Other Evaluation

Wynne v. Tufts University School of Medicine

[3] Identifying and Documenting the Disability

Nathanson v. Medical College of Pennsylvania

- D. The Enrolled Student
  - [1] Auxiliary Aids and Services

Hypothetical Problem 6.2

United States v. Board of Trustees for the University of Alabama

[2] Modifications of Requirements

Hypothetical Problem 6.3

McGregor v. Louisiana State University Board of Supervisors

Guckenberger v. Boston University

[3] Behavior and Conduct Issues

Hypothetical Problem 6.5

Doe v. New York University

[4] Obligations after Disqualification

Hypothetical Problem 6.6

Anderson v. University of Wisconsin

- [5] Athletics
- [6] Other Programming
- [7] Confidentiality Issues

Doe v. Southeastern University

E. Architectural Barrier and Facility Issues

Hypothetical Problems 6.4

[1] Housing

Coleman v. Zatechka

- [2] Other Facility Issues
- F. Faculty Issues
- G. Other Issues
  - [1] Direct Threat
  - [2] Technology
  - [3] Food Issues
- H. Summary

#### **Chapter 7 · Education**

- A. Introduction and Overview
  - [1] Chapter Goals
  - [2] Key Concepts and Definitions

Sequential Listing of Key Statutes and Supreme Court Decisions

- B. Relationship of Discrimination Statutes to Individuals with Disabilities Education Act *Smith v. Robinson*
- C. Substantive Protections under the Individuals with Disabilities Education Act
  - [1] Appropriate Education

Hypothetical Problem 7.1

Board of Education v. Rowley

[2] Related Services

Hypothetical Problem 7.2

Irving Independent School District v. Tatro

Cedar Rapids Community Schooldistrict v. Garret F.

[3] Least Restrictive Environment — Mainstreaming

Hypothetical Problem 7.3

Sacramento City Unified School District v. Rachel H.

Murray v. Montrose County School District

[4] Disciplinary Removal — Denial of Services

Hypothetical Problem 7.4

Honig v. Doe

[5] Education during Dispute Resolution

Hypothetical Problem 7.5

Burlington School Committee v. Department of Education

Florence County School District Four v. Carter

Forest Grove School District v. T.A.

D. Nondiscrimination and Reasonable Accommodation under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act

Hypothetical Problem 7.6

[1] Students Not Covered by the IDEA

Doe v. Belleville Public School District

[2] Substantive Application

Pottgen v. Missouri State High School Activities Ass'n

Hypothetical Problem 7.7

Wolff v. South Colonie Central School District

Bechtel v. East Pennsylvania School District

E. Section 1983 Actions and Students with Disabilities in Schools

Hypothetical Problem 7.8

Manecke v. School Board

- F. Enforcement
- G. Summary

### Chapter 8 · Housing and Independent Living

- A. Introduction
- B. Overview

Hypothetical Problem 8.1

C. Discrimination

Baxter v. City of Belleville

- D. Reasonable Accommodation
  - [1] Parking

Shapiro v. Cadman Towers, Inc.

[2] Accommodating Mental Illness and Substance Abuse

City Wide Associates v. Penfield

[3] Accommodations for Assistance or Service Animals

Crossroads Apartments Ass'n v. LeBoo

E. Structural Barriers

Lincoln Realty Management Co. v. Pennsylvania Human Relations Commission

Congdon v. Strine

F. Least Restrictive Environment and Independent Living

Olmstead v. L.C.

Familystyle v. City of St. Paul

City of Edmonds v. Oxford House, Inc.

Oxford House-C v. City of St. Louis

- G. Enforcement
- H. Summary

# **Chapter 9 · Health Care and Insurance**

- A. Introduction and Overview
  - [1] Chapter Goals
  - [2] Key Concepts and Definitions
- B. Nondiscrimination in Health Care Services

Bowen v. American Hospital Ass'n

*In re Baby K* 

Hypothetical Problem 9.1

Bragdon v. Abbott

C. Architectural Barriers, Auxiliary Aids and Services, and Reasonable Accommodation

Hypothetical Problem 9.2

Aikins v. St. Helena Hospital

Mayberry v. Von Valtier

D. Health Insurance

John Doe and Richard Smith v. Mutual of Omaha Insurance Company

E. Summary

# **Index**