



NATIONAL EMPLOYMENT LAW INSTITUTE

38th Annual

# PUBLIC SECTOR EEO & EMPLOYMENT LAW UPDATE

*Comprehensive Training on Major Developments  
and Their Impact on Public Sector Employment Practices*

**San Francisco, CA**

August 16-17, 2018  
Westin St. Francis

NEW  
HOTEL

**Washington, DC**

August 23-24, 2018  
Omni Shoreham Hotel

***Provides 12 - 14.5 CLE / PDC / CEU credits in all states.***

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*Faegre Baker Daniels  
Indianapolis, Indiana*

ROBERT D. BROWNSTONE, Esq.  
*Fenwick & West  
Silicon Valley, California*

RYAN D. DERRY, Esq.  
*Paul Hastings  
Los Angeles, California*

DENNIS P. DUFFY, Esq.  
*BakerHostetler  
Houston, Texas*

SHANNON D. FARMER, Esq.  
*Ballard Spahr  
Philadelphia, Pennsylvania*

DAVID K. FRAM, Esq.  
*NELI  
Golden, Colorado*

ANDREW R. LIVINGSTON, Esq.  
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San Francisco, California*

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Detroit, Michigan*

JEFF NOWAK, Esq.  
*Franczek Radelet  
Chicago, Illinois*

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New York, New York*

KENNETH M. WILLNER, Esq.  
*Paul Hastings  
Washington, DC*

## 2018 PROGRAM SCHEDULE

### EMPLOYMENT LAW UPDATE

*San Diego, CA, July 12-13 • Chicago, IL, July 19-20  
Washington, DC, July 26-27*

### CALIFORNIA EMPLOYMENT LAW UPDATE

*San Diego, CA, July 11*

### ADA WORKSHOP SERIES

*Seattle, WA, Sept 24 • Los Angeles, CA, Sept 27  
New York, NY, Oct 1  
Chicago, IL, Oct 3 • Washington, DC, Oct 12*

### WASHINGTON / CALIFORNIA DISABILITY LAW WORKSHOP

*Seattle, Sept 25 • Los Angeles, Sept 28*

### AFFIRMATIVE ACTION PROGRAM

*Chicago, IL, October 18-19  
Austin, TX, October 25-26*

### AFFIRMATIVE ACTION WORKSHOP

*Chicago, IL, October 17  
Austin, TX, October 24*

### EMPLOYMENT LAW CONFERENCE

*Chicago, IL, November 1-2 • Washington, DC, November 8-9  
Austin, TX, November 15-16  
San Francisco, CA, November 29-30 • New Orleans, LA, December 6-7*

Visit [www.neli.org](http://www.neli.org) for complete program information!

# REGISTRATION AND ORDER FORM

Please accept my registration for the:

## 2018 PUBLIC SECTOR EEO

### & EMPLOYMENT LAW UPDATE

- San Francisco, CA, August 16-17 • Westin St. Francis  
 Washington, DC, August 23-24 • Omni Shoreham Hotel

#### Registration Fees

- Government Employees.....**\$895.00**  
 Non-Government Employees.....**\$995.00**

#### Early Registration Fees

(Paid Registration received by July 25 - San Francisco; August 1 - Washington, DC)

- Government Employees.....**\$845.00**  
 Non-Government Employees.....**\$945.00**

I am unable to attend. Please send me the:

#### 2018 Public Sector EEO & Employment Law Manual

Print \_\_\_ copies @ **\$189.00**..... \_\_\_\_\_

Searchable PDF \_\_\_ copies @ **\$169.00**..... \_\_\_\_\_

Print & Searchable PDF \_\_\_ copies @ **\$229.00**..... \_\_\_\_\_

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(Note: Confirmations and program announcements sent via e-mail.)

**Do you require any accommodation, due to a disability, to attend this program?**  No  Yes

(Describe) \_\_\_\_\_

CLE CREDIT: Provide state(s) and bar number(s).

## REGISTRATION INFORMATION

**Early registration is advised.** Registrations will be confirmed by e-mail. On-site registrations are subject to space availability.

**Registration Fee: \$995.00 • Early Discounted Fee: \$945.00**  
**Government Fee: \$895.00 • Early Discounted Fee: \$845.00**

#### Early Registration Cut-Off Dates

San Francisco - July 25 • Washington, DC - August 1

**Payment in full or a fully-executed purchase order is required prior to the program.**

**Group Rates, Discounts and Substitutions** are available and permissible. Email [neli@neli.org](mailto:neli@neli.org) for more information.

**Cancellation Policy:** Cancellations must be confirmed by email to our Registrar. Registrations cancelled more than ten business days prior to the program may elect to receive a full fee credit, or a refund, less a \$150.00 administrative fee. Those cancelled ten or fewer business days prior to the program will receive a fee credit, less a \$250.00 administrative fee. Transfers between cities must be pre-approved. Fee credits may be applied during the next 12 month period to any of the Institute's programs or publications. Paid no-shows will receive the program Manual upon request in full consideration of fees paid. Unpaid cancellations and unpaid no-shows are liable for the registration fee. Any refunds will be processed after the program series concludes.

## CONTINUING EDUCATION

This program will provide between **12-14.5 CLE / PDC / CEU credits, depending upon the jurisdiction.** NELI applies for credit from all MCLE states. Contact us for approval status. To apply for CLE credit, please complete box on registration form. NELI will provide the necessary forms and proof of attendance. NELI is recognized by most professional associations as an approved CEU/CPE provider, and is an approved provider of HRCI and SHRM for recertification credit.

As always, **NELI will file in as many jurisdictions/states as you are licensed for no additional fee**, although registrants need to file for credit on their own behalf in jurisdictions that require it.

## REGISTRATION PROCEDURE

#### MAILING ADDRESS:

**NELI, P. O. Box 1189, Golden, Colorado 80402**

**PHONE: (303) 861-5600**, 8:00 a.m. - 4:30 p.m. Mountain Time

**FAX: (303) 861-5665**

**INTERNET: [www.neli.org](http://www.neli.org)**

**EMAIL: [registrar@neli.org](mailto:registrar@neli.org)**

#### HOTEL ACCOMMODATIONS

For NELI's group rate, reservations must be made directly with the hotel (not through a travel agent). Room blocks are limited and group rates cannot be guaranteed after the listed cut-off dates, and may be fully booked before then. Reserve early and state that you are attending NELI's *Public Sector EEO & Employment Law Update*. If you experience difficulty, please call NELI. After the cut-off date, reservations at the group rate are on a space available basis.

#### San Francisco - Westin St. Francis

335 Powell Street, San Francisco, CA 94102

(415) 397-7000 or (888) 627-8546

NELI Group Rates:

Traditional - \$267.00; Deluxe - \$297.00

Prevailing Government Per Diem: Classic - \$276.00

**Reservation cut-off date: July 25, 2018**

#### Washington, DC - Omni Shoreham Hotel

2500 Calvert Street, NW, Washington DC 20008

(202) 234-0700 or (800) 843-6664

NELI Group Rates:

Run-of-House - \$175.00

Prevailing Government Per Diem: \$175.00

**Reservation cut-off date: August 6, 2018**

- Lower rates may be available on hotel websites.
- All rates subject to taxes.

- Government ID will be required at hotel check-in to qualify for government rate (subject to change).

## DAY ONE

**7:45 Program Check-In & Continental Breakfast****8:30 Developments in EEO Law**

Annual update of Supreme Court cases and the most significant appellate court and trial court cases and their application and implications for employment practices and litigation in key substantive and procedural areas, including race, sex, color, religion, national origin, gender and pregnancy discrimination, the ADEA, damages, and injunctive relief, highlighting those relevant to the public sector.

*San Francisco - Ryan Derry  
Washington, DC - Ken Willner*

**10:45 Refreshment Break****11:00 Best Practices for FMLA Compliance**

Discussion of what is new from the Department of Labor and the courts, the burden on employers to investigate the need for FMLA leave, what constitutes "notice" of the need for leave, enforcing call-in procedures, best practices in managing the medical certification process including how to handle an employee who states that the return to work date is "unknown" or the certification is otherwise vague, enforcement of attendance policies, tips for managing intermittent leave abuse including fraudulent use of leave and the honest belief defense, and other issues.

*San Francisco - Jeff Nowak  
Washington, DC - Megan Norris*

**12:30 Luncheon (Hosted by NELI)****1:30 Critical Wage and Hour Issues**

Recent decisions and new DOL interpretations and initiatives from the Trump Administration, the continued surge in joint employer theories and cases, exemption and misclassification decisions, compensable time in our increasingly technology centered workplace, rounding and auto-deduction issues, decisions on settling FLSA cases, issues involving contingent workers and the gig economy, and emerging case law on actual or constructive knowledge of overtime worked required to prove a claim.

*San Francisco - Ellen Boshkoff  
Washington, DC - Shannon Farmer*

**3:00 Refreshment Break****3:15 The E-Workplace: Privacy Issues and Cyber Security Concerns**

Discussion of this century's evolving technology that keeps challenging employers who must decide how to restrict, monitor and scrutinize employees' and applicants' virtual activities inside and outside the workplace, navigating new types of communications and storage platforms that impact the interplay between employees' privacy rights and employers' information security programs, including the ever-growing use of "Cloud" technology, public and private sector employers' rights to limit employees' personal social networking site (SNS) postings, implications of BYOD vs. COPE, prohibitions on forced disclosure of personal logins, proactive steps to minimize risks of data theft and breaches, the emergence of workplace artificial intelligence, compliance with state laws restricting use of employees' biometric information and discoverability of SNS posts, photos and messages.

*Both Locations - Bob Brownstone*

**5:00 Adjourn**

## DAY TWO

**7:30 Continental Breakfast****8:00 Harassment and Investigations in the "Me Too" Era**

Coverage of recent judicial and EEOC developments including what constitutes severe and pervasive conduct, same-sex harassment, when and how to establish an affirmative defense, and actions employers should implement to reduce exposure to liability in the "Me Too" era, including creative preventative strategy solutions (beyond basic harassment training and updating policies) to diagnose and proactively manage workplace culture issues, promote an environment that values respect, and foster open communication important to creating a culture of compliance and mutual respect. Also, the additional legal requirements in harassment investigations, including selecting the right investigator, defining the scope, distinguishing between fact finding and findings of policy and law, balancing confidentiality and the duty to investigate, ensuring prompt thorough investigations, establishing and preserving privilege, investigating misconduct with criminal implications, and/or in the absence of a cooperative complainant.

*Both Locations - Dennis Duffy*

**9:30 ADA/Rehabilitation Act: Fast-Breaking Developments on Reasonable Accommodation**

Latest practical developments for public sector employers on reasonable accommodation issues under the ADA and Rehabilitation Act, including what to train first level supervisors to listen for as possible triggers to the interactive process, what supervisors and HR personnel should be trained to say and document in response to employee requests, ground-breaking cases on what is considered "reasonable," particular accommodation questions, such as when and how much "leave" is required, how this interplays with the FMLA, whether repeated leave extensions are required, whether less stressful work, reduced workloads, non-competitive reassignment, an "irritant-free" environment, work-at-home, shift changes, supervisor changes, or reserved parking spaces are required, what to do when an employee blames misconduct on a disability, and whether government enforcement positions are changing under the Trump Administration.

*Both Locations - David Fram*

**10:30 Refreshment Break****10:45 ADA/Rehabilitation Act (continued)****11:30 Persistent Retaliation Claims**

Analyzing the continuous stream of retaliation claims that present challenges for public sector employers, including recent decisions defining "protected activity," what knowledge is necessary to establish a claim, retaliatory harassment (including investigations and counter-claims), what employer conduct negates an inference of "causation," third party retaliation, what constitutes "unreasonable opposition" and unlawful disclosures, and tips to avoid and minimize liability.

*San Francisco - Andrew Livingston  
Washington, DC - Jill Rosenberg*

**1:15 Adjourn****REGISTRATION FEE INCLUDES:**

- 2018 Public Sector EEO & Employment Law Manual (in both searchable PDF and print formats).
- Expanded Continental Breakfast both mornings.
- 12 to 14.5 CLE / PDC / CEU hours depending upon your jurisdiction. NELI will file in as many jurisdictions/states as you are licensed for no additional charge.
- Luncheon hosted by NELI.

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