



NATIONAL EMPLOYMENT LAW INSTITUTE

Twenty-Ninth Annual

ADA & FMLA COMPLIANCE UPDATE

*The nation's most comprehensive program on new legal developments
and practical advice on questions regarding ADA & FMLA compliance.*

San Francisco, CA

April 4-5, 2019

Westin St. Francis

Chicago, IL

April 11-12, 2019

The Gwen

Washington, DC

April 18-19, 2019

W Washington DC

DAVID K. FRAM, Esq.

Program Chair • Director, ADA Services

National Employment Law Institute • Golden, Colorado

For information on ADA in-house training, contact NELI.

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REGISTRATION FEE INCLUDES:

- 2019 ADA & FMLA Compliance Manual (*in both print and downloadable PDF formats*).
- **12 - 14.5 CLE / PDC / CEU hours, depending upon the jurisdiction**, and CLE filing in all states where you're licensed for no additional charge.
- Continental Breakfast both mornings.
- Luncheon hosted by NELI, an opportunity to network with other participants and faculty.

2019 ADA & FMLA COMPLIANCE MANUAL

(print & downloadable PDF formats)

A definitive research and reference workbook, containing papers and supporting documents written and compiled exclusively for this program. The Compliance Manual is available for purchase by those who cannot attend the Update. Please fill out the Registration/Order form and return it to NELI.

For rush orders: phone, fax, or e-mail NELI. Purchasers of the Manual will receive their orders following the program series.

REGISTRATION AND ORDER FORM

Please accept my registration for the:

2019 ADA & FMLA COMPLIANCE UPDATE

- San Francisco, CA, April 4-5 • Westin St. Francis
 Chicago, IL, April 11-12 • The Gwen by Marriott
 Washington, DC, April 18-19 • W Washington DC

Registration Fee:\$995.00

Early Registration Fee:\$945.00

(Paid Registration received by March 13, March 20 and March 27, respectively.)

- I am unable to attend. Please send me the:

2019 ADA & FMLA Compliance Manual

Print ___ copies @ \$189.00.....

Downloadable PDF @ \$169.00.....

Both Formats ___ copies @ \$229.00.....

Shipping and Handling (\$13.00 for print copy).....

Colorado residents add 7.4% sales tax (publications only).....

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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 and bar numbers.

REGISTRATION INFORMATION

Early registration is advised. Registrations will be confirmed by e-mail. On-site registrations are subject to space availability. **Payment in full is required prior to the program.**

Registration Fee: \$995.00 • Early Discounted Fee: \$945.00

Early Registration Cut-Off Dates

San Francisco - March 13

Chicago - March 20 • Washington, DC - March 27

Group Rates, Discounts and Substitutions are available and permissible. Email neli@neli.org for more information.

Cancellation Policy: Cancellations must be confirmed prior to the program. 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 NELI'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 conclusion of the program series.

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

MAIL: NELI, P. O. Box 1189, Golden, Colorado 80402

PHONE: (303) 861-5600

8:00 a.m. - 4:00 p.m. Monday - Thursday Mountain Time

8:00 a.m. - 12:00 p.m. Friday Mountain Time

FAX: (303) 861-5665

INTERNET: www.neli.org

EMAIL: 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 *ADA & FMLA Compliance 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

Traditional - \$329.00; Deluxe - \$359.00 (plus tax)

Reservation cut-off date: March 13, 2019

Chicago, IL - The Gwen by Marriott

521 North Rush Street, Chicago, IL 60611

(312) 645-1500 or (866) 716-8136

Run-of-House Room - \$299.00 (plus tax)

Reservation cut-off date: March 20, 2019

Washington, DC - W Washington DC

515 - 15th Street, NW, Washington, DC 20004

(202) 661-2400 or (877) 946-8357

"Spectacular" Room (exterior) - \$365.00 (plus tax)

"Wonderful" Room (interior) - \$345.00 (plus tax)

Reservation cut-off date: March 27, 2019

• Lower rates may be available on hotel websites •

2019 AGENDA

DAY ONE

- 7:45 Program Check-In & Continental Breakfast**
- 8:30 Trends in the Law: The ADA After 29 Years**
- Our experts review trends in disability law 29 years after passage of the ADA, including thoughts on the direction of the ADA under the Trump Administration
- Panelists*
- 9:00 Update on the Definition of “Disability”**
- Discussion of the wealth of new cases on the definition of “disability” under the ADA, including cases on new “major life activities,” how long a condition must last and how serious it must be, and practical tips on how supervisors can avoid “regarding” an individual as disabled
 - Whether an employer can or should simply “assume” disability (and, if so, how to document practices)
- San Francisco & Washington, DC - David Fram
Chicago - Sabrina Shadi*
- 10:15 Refreshment Break**
- 10:30 Whether an Individual is “Qualified”**
- Practical considerations and decisions including whether employers may change job functions and quantity standards, the importance of up-to-date job descriptions, whether handling job stress, getting along with co-workers, particular schedules, and lifting are considered “essential,” EEOC’s controversial positions on attendance, shifts, and overtime, and whether the agency’s positions have been changing under the Trump Administration
 - Important evidence concerning whether an individual is “qualified,” including the danger of inflated performance evaluations, inconsistent doctors’ notes, and representations by the employee in another forum
- San Francisco - Paul Buchanan
Chicago - David Fram
Washington, DC - Joshua Stein*
- 12:00 Luncheon (Hosted by NELI)**
- 1:00 Direct Threat Issues**
- Why employers rarely argue direct threat, what to argue instead, how courts and the EEOC analyze whether an individual poses a “direct threat,” conditions such as mental disabilities, “balancing” risk against harm, especially when the harm is to co-workers or the public
- San Francisco - David Fram
Chicago - Sabrina Shadi
Washington, DC - Joshua Stein*
- 1:30 Understanding Conduct Rules**
- Analysis of rules such as policies on drugs (including state-legalized marijuana), alcohol, violence, safety, co-worker courtesy, and tardiness, and whether and when discipline must be rescinded if an employee breaks a conduct rule because of a disability
- All Locations - David Fram*
- 2:00 Practical “Reasonable Accommodation” Issues**
- Discussion of the latest Court of Appeals cases, including the meaning of “reasonable,” what technically triggers the duty to interact, when accommodations are not required, what type of medical information may be requested from the employee, and particular accommodation requests such as leave (including repeated leave extensions), schedule adjustments, change of supervisors, non-competitive reassignment, light duty, work-at-home, shift changes, and a perfume-free workplace
 - **There will be a 15 minute break at 2:45 p.m.**
- San Francisco - Paul Buchanan & David Fram
Chicago - Sabrina Shadi & David Fram
Washington, DC - Joshua Stein & David Fram*
- 5:00 Adjourn**

DAY TWO

- 7:30 Continental Breakfast**
- 8:00 Requesting Medical Information Under the ADA**
- Latest cases and EEOC’s policies concerning the ADA’s restrictions on medical questions and exams
 - Emerging developments on fitness-for-duty exams, permissible questions when an applicant or employee requests reasonable accommodation, and critical new confidentiality issues, including EEOC’s broad crackdown on employers in cases involving allegations of supervisors’ disclosure (or co-mingling) of medical information
- All Locations - David Fram*
- 8:45 Update on Complex FMLA Issues**
- Discussion of the latest Advisory Opinion letters from DOL and general enforcement issues, how the various paid sick leave laws affect FMLA administration, practical guidance on DOL audits and on-sites, a review of recent court decisions, including on the importance of clear and accurate communications, coverage and eligibility issues, the requirements of notice by both parties, how far employers can go when requiring notice of intermittent absences according to specific employer procedures
 - Whether an employer can still designate FMLA-qualifying leave retroactively if the employee refuses, guidance on what qualifies as leave to care for a family member, the meaning of “equivalent position,” the risks of eliminating the job of an employee on leave, the pitfalls of allowing work while on leave, and how to avoid employer conduct that defeats summary judgment
 - Discussion of 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, the duty to return an employee to work when the employer disagrees with the doctor’s fitness for duty certification
 - Whether any leave is FMLA protected if the certification is turned in late, the standard for employees being relieved of meeting medical certification deadlines because they are making diligent, good faith efforts, effectively utilizing recertifications when there is suspected intermittent leave abuse, and whether/how an employer can require a medical exam upon return to work from an FMLA leave
 - Managing intermittent leave abuse, including fraudulent use of leave and the good faith, honest belief defense
 - **There will be a 15 minute break at 10:15 a.m.**
- San Francisco - Julie Lucht & Andrew Moriarty
Chicago - Ellen McLaughlin & Jeff Nowak
Washington, DC - Megan Norris & Darrell VanDeusen*
- 12:00 ADA/FMLA Case Study**
- Interactive session analyzing factual scenario likely to arise in the workplace, including practical strategies for managing the employee on a medical leave
- San Francisco - Lucht, Moriarty, Fram
Chicago - McLaughlin, Nowak, Fram
Washington, DC - Norris, VanDeusen, Fram*
- 1:15 Adjourn**

EEOC Participation:

On Day One, EEOC Faculty will provide commentary on the latest EEOC regulations, cases, positions, and practical guidance for employers, where applicable.

*San Francisco & Washington, DC - Sharon Rennert
Chicago - Jeanne Goldberg*

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