



NATIONAL EMPLOYMENT LAW INSTITUTE

Thirtieth 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 2-3, 2020
Westin St. Francis

Washington, DC

April 16-17, 2020
W Washington DC

Chicago, IL

April 23-24, 2020
The Gwen

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:

- 2020 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.
- **New!** Complimentary ADAPT Certification - ADA Professional Training.



REGISTRATION AND ORDER FORM

Please accept my registration for the:

2020 ADA & FMLA COMPLIANCE UPDATE

- San Francisco, CA, April 2-3 • Westin St. Francis
 Washington, DC, April 16-17 • W Washington DC
 Chicago, IL, April 23-24 • The Gwen by Marriott

Registration Fee:\$1045.00

Early Registration Fee:\$995.00

(Paid Registration received by March 11, March 25 and April 1, respectively.)

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

2020 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).....

TOTAL = _____

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Signature _____ Date _____

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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: \$1045.00 • Early Discounted Fee: \$995.00

Early Registration Cut-Off Dates

San Francisco - March 11

Washington, DC - March 25 • Chicago - April 1

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 - \$339.00; Deluxe - \$369.00 (plus tax)

Reservation cut-off date: March 11, 2020

Washington, DC - W Washington DC

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

(202) 661-2400 or (888) 236-2427

"Spectacular" Room (exterior) - \$379.00 (plus tax)

"Wonderful" Room (interior) - \$359.00 (plus tax)

Reservation cut-off date: March 25, 2020

Chicago, IL - The Gwen by Marriott

521 North Rush Street, Chicago, IL 60611

(312) 645-1500 or (888) 236-2427

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

Reservation cut-off date: April 1, 2020

• Lower rates may be available on hotel websites •

2020 AGENDA

DAY ONE

7:45 Program Check-In & Continental Breakfast

8:30 Trends in the Law: The ADA After 30 Years

- Our experts review trends in disability law 30 years after passage of the ADA, and, subsequently, the ADA Amendments Act

Panelists

9:00 Update on the Definition of “Disability”

- Discussion of the continuing wave of Court of Appeals cases on the definition of “disability” under the ADA, including cases on whether conditions are “impairments,” new “major life activities,” how long a condition must last, and how serious the condition 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 - Sabrina Shadi

Washington, DC - Fran DeLuca

Chicago - David Fram

10:15 Refreshment Break

10:30 Whether an Individual is “Qualified”

- Latest court cases and practical considerations on the meaning of “qualified,” 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, regular attendance, overtime, and lifting are considered “essential,” and EEOC’s positions on attendance, shifts, and overtime

- 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

- Update on why employers rarely use a “direct threat” argument as to why someone is not qualified and what to argue in its place

San Francisco & Washington, DC - David Fram

Chicago - Paul Buchanan

12:00 Luncheon (Hosted by NELI)

1:00 Understanding Conduct Rules

- Analysis of particular conduct rules, such as policies on drugs (including state-legalized marijuana), alcohol, violence, safety, co-worker courtesy, and tardiness

- Whether and when discipline must be rescinded if an employee breaks a conduct rule because of a disability

San Francisco - Sabrina Shadi

Washington, DC - Fran DeLuca

Chicago - David Fram

2:00 Practical “Reasonable Accommodation” Issues

- Discussion of the latest Court of Appeals cases on practical reasonable accommodation issues, including critical new cases on the meaning of “reasonable,” what technically triggers the duty to interact, when accommodations are not required, whether an employer will be “punished” for doing a “good deed” by providing more than is required by law, and particular accommodation requests such as leave (including repeated leave extensions), schedule adjustments, change of supervisors, non-competitive reassignment, work-at-home, shift changes, and a perfume-free workplace

- **There will be a 15 minute break at 2:45 p.m.**

San Francisco - Sabrina Shadi & David Fram

Washington, DC - Fran DeLuca & David Fram

Chicago - Paul Buchanan & 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 confidentiality issues, including EEOC’s scrutiny of 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, review of recent court decisions including cases on the importance of clear and accurate communications, coverage and eligibility issues, the requirements of notice by the employee and the employer, such as whether employers must send FMLA notices so that receipt is verifiable, how far employers can go when requiring employees to provide notice of intermittent absences according to specific employer procedures, whether an employer can still designate FMLA-qualifying leave retroactively if the employee refuses, practical 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 FMLA leave, the pitfalls of allowing an employee to 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 FMLA leave

- Tips for 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

Washington, DC - Megan Norris & Tracy Billows

Chicago - Ellen McLaughlin & Jeff Nowak

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

Washington, DC - Norris, Billows, Fram

Chicago - McLaughlin, Nowak, 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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