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Understanding Disability Law

THIRD EDITION

Mark C. Weber

VINCENT DE PAUL PROFESSOR OF LAW
DEPAUL UNIVERSITY COLLEGE OF LAW



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*This book is dedicated to the students who assisted me on the project:
Kim Brown, Curtis Gonzalez, Ben Johnson, Elizabeth Powell, and Rachel Milos.*

Contents

Preface	xiii
Chapter 1 · Introduction and Constitutional Issues	3
§ 1.01 Overview of Disability Law	3
[A] Medical Models and Social or Civil Rights Models	3
[B] Discrimination, Torts, Public Benefits, and Other Legal Topics	4
§ 1.02 Overview of Disability Discrimination	5
[A] Forms of Discrimination	5
[B] Sources of Law	6
§ 1.03 Overview of Constitutional Issues	7
[A] Equal Protection	7
[B] Due Process	10
[C] Eighth Amendment	12
Chapter 2 · Statutory Coverage	15
§ 2.01 Definitions of Disability	15
[A] Federal Statutory Provisions	16
[B] Alternative Definitions	16
[C] Role of Mitigating Measures: The <i>Sutton</i> Trilogy and the ADA Amendments Act of 2008	19
[D] Contagious Diseases	23
[E] Exclusion for Current Users of Illegal Drugs	26
[F] Other Exclusions	27
§ 2.02 Actually Impaired	27
[A] Physical or Mental Impairment	27
[B] Substantially Limits	28
[C] Major Life Activities	32
[D] Major Life Activity of Working	35
§ 2.03 Record of an Impairment	36
§ 2.04 Regarded as Having an Impairment	37
§ 2.05 Qualified Individual	40
§ 2.06 Entities and Individuals Bound by the Disability Discrimination Laws	41
[A] ADA Coverage	42
[B] Coverage of Section 504	42
[C] Coverage of Other Provisions	43
Chapter 3 · Employment Discrimination	45
§ 3.01 Overview of Employment Discrimination	45
[A] Relevant Statutory Provisions	45
[B] Covered Entities Under the ADA	48

§ 3.02 Qualified Individual	49
[A] Relation of “Qualified Individual” to “Reasonable Accommodation”	49
[B] Essential Functions	50
[C] Judicial Estoppel	52
§ 3.03 Disparate Treatment and Limiting, Segregating, and Classifying	54
§ 3.04 Standards, Criteria, and Methods of Operation with Disparate Impacts; Tests and Selection Criteria	57
§ 3.05 Failing to Provide Reasonable Accommodations	62
[A] Burdens	63
[B] Reasonable Accommodation and Undue Hardship Standards	65
[C] Job Restructuring and Reassignment to a Vacant Position	68
[D] Interactive Process	70
[E] Alcoholism and Use of Illegal Drugs	72
[F] Accommodations for Persons Regarded as Disabled	73
§ 3.06 Medical Examinations and Inquiries	74
[A] Pre-Employment Inquiries	74
[B] Medical Examinations After Conditional Offer	76
[C] Inquiries and Examinations of Current Employees	77
[D] Drug Testing and Related Issues	79
§ 3.07 Discrimination by Contractual Arrangement	79
§ 3.08 Associational Discrimination	80
§ 3.09 Additional Defenses	82
[A] Limitations	82
[B] Exhaustion of Administrative Remedies	84
[C] Direct Threat	85
[D] Mandatory Arbitration	88
§ 3.10 Remedies	90
[A] Compensatory and Punitive Damages	91
[B] Backpay, Reinstatement, Injunctions, and Other Equitable Relief	92
[C] Attorneys’ Fees	93
§ 3.11 Employment Policy Considerations	94
Chapter 4 • Educational Discrimination	97
§ 4.01 Primary and Secondary Education	97
[A] Overview of the Individuals with Disabilities Education Act	97
[B] Eligibility and Evaluation	100
[C] Appropriate Education	104
[D] Least Restrictive Environment	109
[E] Procedures and Remedies	112
[F] Student Discipline	116
§ 4.02 Post-Secondary Education	119
[A] Overview of Higher Education Discrimination	120
[B] Qualifications and Reasonable Accommodation	120
[C] Academic Deference	125
[D] Specific Issues Regarding Learning Disabilities	127
[E] Courses and Examinations	130
Chapter 5 • Public Accommodations Discrimination	133
§ 5.01 Overview of Public Accommodations Discrimination	133
§ 5.02 Defining Public Accommodations	136

§ 5.03 Reasonable Modifications and Auxiliary Aids and Services	138
[A] Reasonable Modifications and Fundamental Alteration	139
[B] Auxiliary Aids and Services and Undue Burden	143
§ 5.04 Accessibility Standards and Barrier Removal	144
§ 5.05 Places of Public Exhibition or Entertainment	149
§ 5.06 Insurance Issues	152
§ 5.07 Remedies	154
Chapter 6 · Discrimination in Government Services and Federally Funded Programs	159
§ 6.01 Overview of Discrimination in Government and Federally Funded Programs	159
§ 6.02 Discrimination by Federal Agencies	160
§ 6.03 State and Local Government and Federally Funded Programs: Disparate Impact Discrimination	163
§ 6.04 State and Local Government and Federally Funded Programs: Modifications of Policies	166
§ 6.05 State and Local Government and Federally Funded Programs: Integrated Services	168
§ 6.06 State and Local Government and Federally Funded Programs: Specific Issues and General Accessibility Duty	171
[A] Employment	171
[B] Voting	173
[C] Courts	174
[D] Prisons	175
[E] Public Benefits and Welfare	176
[F] Recreation	178
[G] Accessibility Requirements in General	178
[H] Medical Decisions	181
§ 6.07 State and Local Government and Federally Funded Programs: Remedies	182
[A] Exhaustion Issues	183
[B] Injunctive Relief	183
[C] Damages Relief	183
[D] Eleventh Amendment Immunity	184
Chapter 7 · Housing, Transportation, Telecommunications, and Additional Discrimination Topics	189
§ 7.01 Housing Discrimination	189
[A] Overview of the FHAA	190
[B] Facial Discrimination and Disparate Treatment	191
[C] Reasonable Accommodation and Disparate Impact	194
[D] Defenses and Exemptions	199
[E] Remedies	201
§ 7.02 Transportation	201
[A] Ground Transportation	202
[B] Air Transportation	207
§ 7.03 Telecommunications	210
[A] Telecommunications Relay Systems	210
[B] Internet Sites and Other Means of Telecommunication	211

§ 7.04 Additional Discrimination Issues	214
[A] Retaliation	214
[B] Disability Harassment	216
[C] International and Comparative Law Issues	218
Table of Cases	221
Table of Statutes	231
Index	235

Preface

People with disabilities are the largest minority in the United States. In the past forty years, American law has responded vigorously to the problem of discrimination against this group of people. The Rehabilitation Act of 1973 forbade disability discrimination in federally funded activities, and the Americans with Disabilities Act of 1990 outlawed disability discrimination in employment, government services, public accommodations, and telecommunications. In the 1970s, Congress established enforceable rights to special education for children with disabilities. Disability discrimination cases are now an important part of the dockets of the courts, and law schools offer courses on Disability Law and similar topics.

This book discusses the major statutory and constitutional issues relating to disability discrimination. It is designed to help students in Disability Law courses synthesize and apply the materials they are learning. It is also designed to function as a compact treatise for practicing lawyers and others looking for an analysis of the Fourteenth Amendment, the Americans with Disabilities Act, section 504 of the Rehabilitation Act, the Individuals with Disabilities Education Act, the Fair Housing Act Amendments, and other laws, as they relate to legal controversies over disability rights. The book discusses leading cases on the major topics of disability law, and suggests ways of thinking about unresolved questions and debates over legal policy.

The book covers a range of disability discrimination issues: (1) constitutional law bearing on disability discrimination; (2) the controversy over who is a person with a disability for purposes of federal statutes; (3) employment discrimination rights and remedies; (4) educational discrimination, including special education law and higher education for students with disabilities; (5) discrimination in public accommodations; (6) discrimination by federal, state, and local governments; and (7) other topics, including disability discrimination related to housing, transportation, and telecommunications.

Throughout the book, “people-first” terminology is used. That is, the book uses the term “person with disabilities” or “child with disabilities,” rather than “disabled person” or “disabled child.” This usage follows that of the Americans with Disabilities Act and other recent statutes and is employed to emphasize that a person who has a disability is a human being first, rather than a manifestation of some disabling condition. The book also uses the word “disability” rather than “handicap” because many people consider the latter term stigmatizing. This usage also follows that of recent federal statutes.

Many thanks to the students at DePaul University College of Law who assisted in this project, notably Kim Brown, Curtis Gonzalez, and Ben Johnson, Rachel Milos, and Elizabeth Powell. Thanks to Keith Moore for his thoughtful editorial work.

The author would be grateful to readers for advice about how to improve the book. Please direct comments to mweber@depaul.edu.

