Disability Law

CASES, MATERIALS, PROBLEMS

SEVENTH EDITION

2025 SUPPLEMENT

(Updated as of July 7, 2025)

Laura Rothstein
EMERITA PROFESSOR OF LAW
UNIVERSITY OF LOUISVILLE LOUIS D. BRANDEIS SCHOOL OF LAW

Ann C. McGinley
EMERITA PROFESSOR OF LAW
UNLV WILLIAM S. BOYD SCHOOL OF LAW

D'Andra Millsap Shu
ASSOCIATE PROFESSOR OF LAW
SOUTH TEXAS COLLEGE OF LAW HOUSTON

CAROLINA ACADEMIC PRESS
Durham, North Carolina

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
E-mail: cap@cap-press.com
www.cap-press.com

DISABILITY LAW Cases, Materials, Problems

Supplemental Material (Summer 2025)

OVERVIEW OF THE SUPPLEMENT

The updates for each chapter are included chapter by chapter, section by section below. The following, however, provides a big picture overview of the most significant developments since the January 2024 publication of the textbook.

Judicial Decisions

The Supreme Court issued four decisions in the 2024-2025 term relevant to disability discrimination law (*A.J.T. v. Osseo Schools*, *Stanley v. City of Sanford*, *Kennedy v. Braidwood*, and *United States v. Skrmetti*).

While important, these decisions probably do not undermine or dramatically change core principles of disability discrimination law. There are also some noteworthy lower court cases. Most lower court decisions continue the trends in judicial approach. One particular federal district court decision is referenced—*Steward v. Young*—because of its lengthy discussion of the issue of the long-standing least restrictive setting principle for disability rights.

As noted below, there are numerous pending cases in various stages addressing recent federal administrative actions. It is too early to provide definitive commentary on the probable outcomes of those cases. Awareness of the litigation, however, can signal trends in enforcement. It is still difficult to synthesize the state of what is required in some areas. These issues, however, can be expected to continue to be the basis of ongoing disputes.

Statutory and Regulatory Changes

While there is little chance of any statutory change, the use of Executive Orders in the context of regulations, funding, and enforcement has placed a number of issues for disability discrimination policy in a state of flux. Many of these changes have been and are currently being challenged in court, and because of the time to proceed through the appellate process, uncertainty on many fronts is likely for the foreseeable future.

One of the greatest challenges since the beginning of the Trump Administration is identifying current policy through agency websites. Many links to administrative agency guidance have been taken down, even including links to the regulations themselves in some cases. Until some of the judicial challenges have worked their way through the courts, it may be difficult to access information from regulatory agencies that was readily available before 2025. Any reference (in the textbook or the Supplement below) to a federal agency regulation or guidance document should keep that uncertainty in mind.

Current Major Areas of Attention and Potential Litigation or Regulatory Activity

The following are some key areas of current public attention and potential litigation. They are detailed in the chapter-specific materials below, but the following is a big picture perspective:

- Definition of disability – The courts are addressing this issue in many. These include a narrow definition that seems to disregard the ADA Amendments Act.

  --The Supreme Court decision on gender affirming care (*Skrmetti*) raises questions about the inclusion of gender dysphoria as a disability, as the Fourth Circuit did in 2022 in *Williams v. Kinkaid*, 45 F.4th 759 (4th Cir. 2022), *cert. denied*, 143 S. Ct. 2414 (2023), and which the Department of Health and Human Services did in 2024 regulations (which are currently being challenged by several states). The Trump Administration has challenged California's state policy of allowing trans athletes to compete in women's sports, and the Supreme Court granted certiorari in a pair of cases in July 2025 involving this issue. *See Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024), *cert. granted*, No. 24-38, 2025 WL 1829165 (July 3, 2025); *B.P.J. v. West Virginia*, 98 F.4th 542 (4th Cir. 2024), *cert. granted*, No. 24-43, 2025 WL 1829164 (July 3, 2025). The definition of gender dysphoria might be addressed in the context of these challenges.

  --Issues relating to Covid include definitional coverage—long Covid, being immunocompromised, and seeking accommodations because of association with someone who is immunocompromised.

  --The range of conditions that fall under the category of "neurodiversity" has received increasing attention. That has become an issue in the context K-12, higher education, and employment. Definitional issues are addressed primarily in Chapter 2, but also in other chapters.

- Website issues – The courts are addressing whether websites are even covered by Title III of the ADA and if so, what is substantively required for access. While the previous administration promulgated Title II website design standards in 2024 after years of consideration, current federal enforcement and validation is currently calling those into question. These issues are noted in Chapters 4, 5 and 6.

- Independent and community living cases frequently address two major issues. The first is the use of zoning restrictions and private deed restrictions to exclude group homes. While there is a trend towards striking down those restrictions, where sober living facilities and similar group settings are involved, there is some variation. The second issue is the attention to the least restrictive environment in community living settings where placement in nursing homes has been challenged. That issue was addressed in new Section 504 regulations in 2024 and in a lengthy federal Texas district court decision in June 2025, both of which are

discussed in Chapter 8.

- Access to voting is likely to be the basis of litigation in the near future, depending on what Congress does regarding federal voting rights. While there is not much to include that provides definitive guidance, because of the importance of this issue, some commentary is included in Chapter 5.

- Training of law enforcement officers to respond in situations involving individuals with disabilities (particularly mental health issues) continues to be an issue. That issue received attention during the Black Lives Matter events that focused national attention on law enforcement training during 2020 and 2021. The issue of law enforcement is likely to receive more attention in light of the increased immigration enforcement that has resulted in detention of individuals who cannot access medical care and other disability related needs. That is addressed in Chapter 5.

- Although the Covid pandemic has ended, a number of issues related to Covid and disability law remain. These arise primarily in the context of masking, vaccinations, and remote work and education. In addition to the definitional questions noted above, the issue of workplace mask and vaccine requirements continues to be in dispute. Occasionally communities have imposed no-mask mandates (in response to crime and campus protests), and these mandates raise concerns where there is no process for obtaining exemptions in various settings. These issues are noted in various chapters.

- The application of the Civil Rights Restoration Act under the Trump Administration may affect colleges and universities in particular. Current litigation includes an assertion that HHS regulations promulgated in 2024 exceeds its statutory authority by obligating "all programs and activities" receiving federal financial assistance provide services in "the most integrated setting."

- Judicial deference to agency regulations was called into question by the 2024 Supreme Court decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which overturned to some extent what was known as *Chevron* deference. It did not entirely rule out deference, but in the current federal administrative climate, it may impact many disability regulations if they are not clearly grounded in statutory authority.

Chapter 1 - Introduction

Page 3, add a new subsection before "A. Overview":

Changes Since the 7th Edition: Statutory, Regulatory, and Enforcement

There are no new statutory provisions since the 7th edition.

There are, however, many important changes including: 1) a Supreme Court case overruling *Chevron* deference; 2) numerous changes to the regulations under Section 504 of the Rehabilitation Act; 3) executive orders by President Trump that will affect the rights of individuals with disabilities; 4) withdrawal of the Department of Justice from consent decrees after investigations and lawsuits against police departments in Louisville and Minneapolis, alleging policy brutality, much of which is directed at individuals with mental health conditions; 5) withdrawal of federal funding of institutions of higher education, alleging antisemitism and/or the continued use of diversity, equity, and inclusion; and 6) reconsideration of federal vaccine policy.

Deference to Agency Regulations: In *Chevron v. Natural Resources Defense Council*, 467 U.S. 837 (1984), the U.S. Supreme Court held that when statutes are ambiguous, courts should defer to agency regulations as to the meaning of the statutes so long as the regulations are reasonable. In 2024, the Court overruled *Chevron* in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), and concluded that courts need not defer to agency regulations if the courts have a different view of the meaning of the statute. This decision leaves courts free to determine what the statutory provisions mean without relying upon the regulations. Because disability law, especially Section 504 of the Rehabilitation Act,[1] is heavily dependent for its meaning on regulations, many of which require specific expertise for their creation, the *Loper Bright* opinion is extremely important. It is unclear, however, how courts will interpret the disability statutes in the future.

New regulations under Section 504 of the Rehabilitation Act: On July 8, 2024, the Biden Administration issued new regulations and a final rule interpreting Section 504 of the Rehabilitation Act. Many of the new provisions sought to regulate services provided to persons with disabilities in healthcare settings. For example, the new regulations clarified that medical providers could not make treatment decisions based on biases against individuals with disabilities, expanded requirements for accessibility in healthcare settings such as creating regulations concerning medical exam tables, and created rules for medical websites.

Moreover, numerous changes in these regulations deal with issues that were highlighted in the 7th edition of the book. For example, the new regulations identify long Covid as an impairment that may substantially limit a major life activity and thus constitute a disability. They also agree with the Fourth Circuit case, *Williams v. Kincaid*, 45 F.4th 759 (4th Cir. 2022), *cert. denied*, 143 S. Ct. 2414 (2023), which held that gender dysphoria may be a disability under the ADA. The exclusion for gender identity disorders does not include gender dysphoria because gender identity disorders refer to identification with a different gender than their assigned birth sex. Gender dysphoria, in contrast, may be a disability because it is characterized by "clinically

[1] Section 504 is extremely short and primarily relies on regulations for its meaning; the ADA, by contrast, is a much longer statute that includes many provisions that are repeated in its regulations.

significant distress or impairment." Once an impairment is proved, the plaintiff must demonstrate that it substantially limits one or more major life activities. The new regulations also detail rules dealing with the following: service animals, maintenance of accessible features, mobility devices, communications and the provision of auxiliary aids, direct threat, retaliation and coercion, fundamental alteration, etc. *See* https://www.hhs.gov/civil-rights/for-individuals/disability/section-504-rehabilitation-act-of-1973/part-84-final-rule-fact-sheet/index.html. Details about some of the regulatory changes will be mentioned throughout this Supplement.

Litigation: In response to the new regulations under Section 504, Texas and 16 other states sued, alleging in part that Section 504 is unconstitutional. *See Complaint*, *Texas v. Becerra*, No. 5:24-cv-00225 (N.D. Tex. Sept. 26, 2024), ECF No. 1. The case originally was called *Texas v. Becerra*, and now is *Texas v. Kennedy*. Due to pressure from advocates, the plaintiffs have stated that they intend to drop the claim that Section 504 is unconstitutional, but they have not yet amended the complaint to that effect, and they have continued to challenge the regulations that grant among other things, a right to receive health care in the community. *See* https://www.deque.com/blog/states-drop-constitutional-challenge-to-section-504-in-texas-v-kennedy/. While it is good news that the plaintiffs no longer seek to declare the entire statute unconstitutional, the *Loper Bright* decision means that individual courts will be free to interpret the new regulations as they see fit.

- *Gender Dysphoria:* In addition to the constitutional argument, the lawsuit alleges that "gender dysphoria" must be included as a subset of "gender identity disorders," which are explicitly excluded from statutory coverage unless there is a physical cause of the disorder. Thus, the complaint alleges, the new rule is contrary to Section 504 and the resulting coverage of gender dysphoria as a potential disability is illegal.

- *Integration:* The complaint attacks the new rule for its integration mandate, which requires that programs and services be provided in the most integrated setting possible appropriate to the needs of the person with a disability. The suit alleges that the new regulations illegally go beyond the requirements of *Omstead v. L.C*, 527 U.S. 581 (1999), and do not permit sufficient consideration of state resources and needs. *Olmstead* held that states are required to provide community-based (integrated) treatment under three conditions, when: 1) the State's experts determine placement is appropriate; 2) the affected persons do not oppose the treatment; and 3) there are sufficient state resources given the needs of all patients.

For more information about these regulations, see the following links:

- Section 504 regulations incorporating the 2024 changes: https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-84

- Section 504 Final Rule with commentary: https://www.govinfo.gov/content/pkg/FR-2024-05-09/pdf/2024-09237.pdf

- Section 504 Final Rule Fact Sheet: https://www.hhs.gov/civil-rights/for-individuals/disability/section-504-rehabilitation-act-of-1973/part-84-final-rule-fact-sheet/index.html

- Section 504 New Requirements for web content, mobile apps, and medical kiosks: https://www.hhs.gov/sites/default/files/new-requirements-accessibility-web-content-mobile-apps-kiosks.pdf

Executive Orders That Will Likely Affect Disability Rights:

Executive Order 14168 (Jan. 20, 2025): "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" declares that there are two biological sexes (male and female) and orders the withdrawal of previous orders that permit transgender individuals to be treated in accordance with their gender identity rather than their sex assigned at birth. This order may be interpreted to contravene the recent regulation promulgated under Section 504 that states that gender dysphoria is not excluded as a potential impairment or disability under the statute.

Executive Order 14188 (Mar. 20, 2025): "Improving Education Outcomes by Empowering Parents. States, and Communities," orders the closure of the federal Department of Education. This order may have significant negative effect on students with disabilities as the Office of Civil Rights (OCR) within the Department of Education has been responsible for investigating and remediating discrimination against students with disabilities under the Individuals with Disabilities Education Act (IDEA). Moreover, the DOE closure will reduce important oversight and may result in transferring enforcement of the IDEA to Health and Human Services, which would likely apply a medical model to disability law. For further discussion of how the closing of the DOE will affect children with disabilities, *see Fact Sheet: The Impact of Closing the Department of Education*, https://www.ndrn.org/resource/fact-sheet-the-impact-of-closing-the-department-of-education/ (Mar. 14, 2025). This issue will be discussed more below in the materials for Chapter 7 (Elementary and Secondary Education).

Executive Order 14281 (Apr. 23, 2025): "Restoring Equality of Opportunity and Meritocracy" states that it will no longer enforce disparate impact law in litigation of civil rights claims. Much of disability law focuses on impact rather than intent; therefore, this order may negatively affect the ability to prevent and correct discrimination against individuals with disabilities.

Other Potentially Harmful Actions:

Withdrawal of Consent Decrees: The DOJ has withdrawn its support of consent decrees negotiated in response to litigation brought against police departments based on police brutality. At least two investigations explicitly found increased police violence against individuals with disabilities, including mental health disabilities. The Trump Administration has disavowed those consent decrees and withdrawn its support for monitoring of the police departments.

Withdrawal of Federal Funding for Institutions of Higher Education: The Trump Administration has threatened universities with the loss of federal funds for research based on alleged antisemitism on campus and adherence to DEI policies, which the Trump Administration concludes constitute unlawful discrimination against white men. Some institutions have

negotiated agreements with the administration while others (Harvard, in particular) have, at least to date, refused to negotiate. The potential loss of funding threatens research that would help individuals with various disabilities, and the criticism of DEI programs will likely have an adverse effect on individuals with disabilities who may benefit from these programs.

Reconsideration of Federal Vaccine Policies: HHS Secretary Robert F. Kennedy, Jr. disbanded all 17 members of the panel that approves vaccines and replaced them with 7 individuals, a number of whom have conflicts of interest and do not have the expertise necessary to decide whether vaccines are safe and should be administered. The panel voted to disapprove all vaccines with thimerosal, a preservative rumored to cause autism, based on no clinical studies. There is concern that Kennedy and his vaccine panel are not relying on good science and are engendering distrust. *See* https://www.pbs.org/newshour/show/trumps-former-surgeon-general-raises-concerns-about-vaccine-panel-overhauled-by-rfk-jr. This politicization of all childhood vaccines raises concerns because vaccines protect through herd immunity those disabled individuals who cannot receive vaccines because they are immune compromised.

DOJ Withdrawal of Guidance: The Justice Department issued a memorandum that it is withdrawing guidance on the following 11 issues:

1. COVID-19 and the Americans with Disabilities Act: Can a business stop me from bringing in my service animal because of the COVID-19 pandemic? (2021)
2. COVID-19 and the Americans with Disabilities Act: Does the Department of Justice issue exemptions from mask requirements? (2021)
3. COVID-19 and the Americans with Disabilities Act: Are there resources available that help explain my rights as an employee with a disability during the COVID-19 pandemic? (2021)
4. COVID-19 and the Americans with Disabilities Act: Can a hospital or medical facility exclude all "visitors" even where, due to a patient's disability, the patient needs help from a family member, companion, or aide in order to equally access care? (2021)
5. COVID-19 and the Americans with Disabilities Act: Does the ADA apply to outdoor restaurants (sometimes called "streateries") or other outdoor retail spaces that have popped up since COVID-19? (2021)
6. Expanding Your Market: Maintaining Accessible Features in Retail Establishments (2009)
7. Expanding Your Market: Gathering Input from Customers with Disabilities (2007)
8. Expanding Your Market: Accessible Customer Service Practices for Hotel and Lodging Guests with Disabilities (2006)
9. Reaching out to Customers with Disabilities (2005)
10. Americans with Disabilities Act: Assistance at Self-Serve Gas Stations (1999)
11. Five Steps to Make New Lodging Facilities Comply with the ADA (1999)

While agency guidance never has had the weight of regulations, it has often been viewed as useful to entities subject to Section 504 and the ADA in guiding their policymaking. It is uncertain whether entities will choose to voluntarily reference the guidance going forward, assuming that they have the information before it is removed from the federal website.

Chapter 2 - Major Disability Laws: History and Overview

D. Defining Disability: Statutory Definitions and Judicial Interpretations

1. Short History and Timeline: Rehabilitation Act, ADA, and ADAAA Definition of "Disability"

Page 53, add to end of the subsection:

Professor Nicole Porter has written three articles analyzing, in five-year increments, all the cases decided under the ADA after the ADA Amendments Act was enacted. Her purpose is to analyze whether courts are applying the proper tests and analysis to the definitions of "disability" in cases governed by the ADAAA. In her most recent article, which discusses cases decided between 2019 and 2023, Professor Porter encountered what she calls "troubling trends." As in the five years before 2019, nearly half (44%) of the courts deciding these cases continue to wrongfully dismiss cases brought by individuals who have alleged sufficient facts in response to motions to dismiss or produced sufficient evidence in response to motions for summary judgment that they fit into the statute's definition of "disability." The courts' errors, according to Porter, are numerous. In some cases, the courts never even mention the ADAAA; in others, courts cite to cases in the "shadow docket," that apply the pre-existing law. Although these "shadow" cases correctly applied the old law to cases whose facts preceded the enactment of the ADAAA, the courts continue to cite these cases even though the law has now changed. Porter details the numerous errors with examples and explains that the courts err not only in determining whether there is an actual disability but also in deciding whether the employer regarded the plaintiff as having a disability. Moreover, Porter explains that her research reveals troubling trends (such as the courts' unwillingness to believe the plaintiff litigants) that signal that we may be heading toward another backlash against claims by individuals with disabilities. *See* Nicole Buonocore Porter, *Troubling Trends: ADA Definition-of-Disability Cases 2019–2023*, 52 PEPP. L. REV. 455 (2025).

6. Exemptions for Stated Conditions

Page 67, add at the end of the subsection:

In *United States v. Skrmetti*, 145 S. Ct. 1816 (2025), the U.S. Supreme Court upheld a Tennessee law that prohibited the use of puberty blockers and/or surgery to treat minors with gender dysphoria, concluding that the statute does not violate the Equal Protection Clause of the 14th Amendment to the U.S. Constitution. Chief Justice Roberts for the Court held that the statute had only to meet the rational basis test because it is not a classification based on sex and, therefore, not entitled to intermediate scrutiny. The majority opinion distinguished *Bostock v. Clayton County*, 590 U.S. 644 (2020), which held that it was sex discrimination under Title VII of the 1964 Civil Rights Act to discriminate based on sexual orientation or transgender status. The Court in *Skrmetti* relied in large part on what it saw as the experimental status of these treatments and the fact that many European countries have banned minors' use of puberty-blocking drugs as well as surgical procedures on minors with gender dysphoria. The case is narrowly decided and does not address the due process rights of parents who seek to get

healthcare, including puberty blockers and/or surgery, for their minor children. That issue will likely arise in the future.

The Supreme Court will continue to consider transgender issues. In July 2025, it granted certiorari in a pair of cases addressing transgender athletes on sports teams. *See Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024), *cert. granted*, No. 24-38, 2025 WL 1829165 (July 3, 2025); *B.P.J. v. West Virginia*, 98 F.4th 542 (4th Cir. 2024), *cert. granted*, No. 24-43, 2025 WL 1829164 (July 3, 2025).

The *Skrmetti* opinion means that the ADA and/or Section 504 might be the only remedy for those claiming discrimination based on gender dysphoria, and more courts will need to decide if the exclusion of "gender identity" necessarily also excludes gender dysphoria as a disability. A few cases have followed the *Williams* ruling and have concluded that gender dysphoria is not excluded under the ADA and Section 504. *See, e.g.*, *Doe v. Ga. Dep't Corr.,* 730 F. Supp. 3d 1327 (N.D. Ga. 2024); *Doe v. Guthrie v. Noel*, No. 1:20-CV-02351, 2023 WL 8115928 (M.D. Pa. Sept. 11, 2023); *Kozak v. CSX Transp., Inc*., No. 20-CV-184S, 2023 WL4906148 (W.D.N.Y. Aug. 1, 2023).

As noted in Chapter 1, the new Section 504 regulations state that gender dysphoria is not excluded as a disability under the Rehabilitation Act. That aspect of the regulation, however, is being challenged in *Texas v. Kennedy*. *See* Chapter 1 materials above. And, given *Loper Bright*, there is more than a slight chance that the Court of Appeals and/or the Supreme Court will conclude that the statute's exclusion of gender identity disorders also excludes gender dysphoria as a disability unless there is a physical manifestation of a disorder.

7. Special Situations

b. Covid and Long Covid

Page 69, add after the first full paragraph:

In *Cogdell v. Reliance Standard Life Ins. Co*., 748 F. Supp. 3d 391 (E.D. Va. 2024), a case brought under ERISA, the court held that the plaintiff made a sufficient showing that she was permanently disabled by producing evidence that she had long Covid, the effects of the illness on her, and scientific studies concerning symptoms of long Covid and the difficulties in diagnosing it.

i. Allergies, Sensitivities

Page 76, add onto the second to last paragraph:

See also D'Andra Milsap Shu, *The Food Allergy Generation Goes to Work,* 66 B.C.L. REV. 857 (2025) (thoroughly demonstrating the importance of recognizing food allergies as potential disabilities, analyzing the various violations occurring in response to employee food allergies, and predicting an overload of future workplace disability lawsuits because the "food allergy generation" is just beginning to enter the workplace).

Chapter 3 - Employment

B. Applicability of Title I of the Americans with Disabilities Act and the Rehabilitation Act

1. Which Employers Are Covered?

Pages 102–03, add to the end of Note 1 (Standing: Former Employees—Standing to Sue under Title I of the ADA?):

In *Stanley v. City of Sanford, Florida*, 606 U.S. __, No. 23-997, 2025 WL 1716138 (June 20, 2025), the Supreme Court decided the question whether retired employees can sue their former employers for discrimination based on a discriminatory denial of retirement benefits. When the plaintiff, a firefighter, began work in 1999, the department provided unlimited health insurance benefits to retired firefighters who had spent 25 years with the force; it also provided health insurance to disabled firefighters who retired before spending 25 years on the force. Sometime in 2003, the department changed its policy, maintaining health insurance for those retired firefighters with 25 years with the force, but providing health insurance for only 24 months for those who retired with a disability. The plaintiff was diagnosed with Parkinson's Disease as of 2016, and retired, due to her disability in 2018.

The Eleventh Circuit held for the defendant. Stanley's petition for certiorari listed only one issue: whether a former employee who challenges discriminatory retirement benefits must be qualified to perform the essential functions of the job at the time she brings the suit. The Court resolved the conflict among the circuits, holding that a former employee does not have a cause of action if the employee is not currently qualified to perform the job either with or without reasonable accommodation.

The majority appeared to recognize that it would make little sense to require a retired employee to meet the qualifications of the job if the question is whether they are being discriminated against based on their retirement benefits. But, instead of considering the intent of the legislature and purpose of the statute to hold for the plaintiff, or remanding to the lower courts for factual findings concerning whether the plaintiff could potentially have a cause of action because she presumably was qualified for the job at the time of her diagnosis in 2016, the Court decided only the issue of whether an individual who is no longer qualified for the job can challenge a discriminatory retirement benefits decision by the employer. The decision, the Court held, was compelled by the procedural posture of Stanley's case, which was disposed of on a motion to dismiss. There were no facts in the complaint that would allow the courts to conclude that the plaintiff was qualified at the time the discrimination occurred. In other words, the plaintiff did not allege that she was qualified to perform the job at a time when the discriminatory policy was in effect.

Four justices who joined the majority, however, softened its decision by raising some ways that a plaintiff in a similar case could potentially prevail. They noted that a plaintiff can challenge a discriminatory policy at the time it is adopted, after retirement, and at the time it applies first to the plaintiff. In Stanley's case, the policy was adopted well before she had a disability, and by the time she claimed discrimination post-retirement, Stanley was no longer qualified, but had she alleged and proved that she was harmed by the discriminatory policy while

she was still working and qualified for the job in question (the two years between 2016 when she was diagnosed and 2018 when she retired), she may have had a cause of action. Other individuals may be able to bring an action for discriminatory retirement benefits in the future based on one of these three theories. Although only four justices joined this part of the opinion, Justice Sotomayor, who concurred in part and dissented in part, explained that there is a majority for the proposition if Justice Jackson is included. Although she dissented, she stated in a footnote that she agreed that the route focusing on when the policy is first applied to the plaintiff is promising.

In her dissent, Justice Jackson criticized the majority for its slavish adherence to textualism, which she argued in this case counters congressional intent and its purpose in passing the ADA. As Justice Jackson explained, retirement benefits are extremely important as deferred compensation for work done by the plaintiff when she was a qualified individual. Jackson stated:

> Retirement benefits are essential building blocks of the American Dream. Workers typically earn these benefits on the job and reap the rewards after leaving the workforce. Congress has long understood that, by enabling workers to retire with dignity, independence, and security, retirement benefits are a critical aspect of job-related compensation. Thus, no one seriously disputes that the [ADA] prohibits disability discrimination with respect to retirement benefits.

Justice Jackson concluded that the majority erred when it used the "qualified" requirement to apply to a person who was qualified at the time she had the job and is currently no longer working and claiming that the employer discriminated against her in denying her retirement benefits. She placed her argument in both the text of the statute, which, as she noted, includes no time limitation, and in congressional intent and the purpose of the statute.

3. What Conditions Are Covered?

Page 108, add new Note 4 (and renumber subsequent notes):

4. *Neurodiversity as Disability*: Many of the older individuals in Generation Z (born between 1997 and 2012) are entering the workforce. This group is called "The ADA Generation" because they are the first generation that grew up with the ADA. Many of these individuals have been diagnosed as neurodiverse, and many have received accommodations throughout their school years and expect also to receive accommodations in their workplaces. Although the term "neurodiverse" describes a wide variety of individuals, it generally includes those with Autism Spectrum Disorder (ASD), Attention-Deficit/Hyperactivity Disorder (ADHD), Down Syndrome, Tourette Syndrome, and specific learning disabilities such as Dyslexia and Dysgraphia, and Dyscalculia. *See* https://dreamzilla.org/blogs/news/a-beautifully-inclusive-community-the-definitions-and-histories-of-the-neurodiversity-spectrum. Although the EEOC does not break down its charges by all these categories, it does have a separate category for ASD. Charges filed with the EEOC over the past few years alleging discrimination based on ASD have skyrocketed. There were 488 autism-related ADA charges filed with the EEOC in fiscal year 2023. This number compares to 53 filed in 2013 and 14 filed in 2003. *See* Rebecca Klar & Khorri Atkinson, *"ADA Generation" Fuels Rise in Neurodiverse Employee Bias Claims*, BLOOMBERG L. (Jan. 13,

2025), https://news.bloomberglaw.com/daily-labor-report/ada-generation-fuels-rise-in-neurodiverse-employee-bias-claims.

Page 109, add to this cite to the end of current Note 5 (Before ADAAA, Employment Cases Often Failed on Issue of Whether Plaintiff Had a Disability):

Nicole Buonocore Porter, *Troubling Trends: ADA Definition-of-Disability Cases 2019–2023*, 52 PEPP. L. REV. 455 (2025) (concluding that 44% of federal courts between 2019 and 2023 incorrectly concluded that the plaintiff did not have a disability, often either not citing the ADAAA or relying on pre-ADAAA case law).

D. What Constitutes Discrimination?

2. Disparate Treatment and Disparate Impact

Page 150, add before the discussion on "Proving Disparate Impact":

In *Ames v. Ohio Department of Youth Services*, 145 S. Ct. 1540 (2025), the question arose in a Title VII sex discrimination case whether a plaintiff alleging "reverse discrimination" has a higher burden in proving a case using the *McDonnell Douglas* analysis than a plaintiff who is a member of the majority and therefore does not allege "reverse discrimination." In *Ames*, the plaintiff was a heterosexual woman who alleged that she was discriminated against because of her (straight) sexual orientation. The Court held that Ames did not have a greater burden in meeting the *McDonnell Douglas* proof requirements than a lesbian who sues for discrimination based on her sexual orientation. This holding applies to other categories of discrimination as well. As a result, white persons alleging race discrimination or men alleging sex discrimination have the same burden of proving a *McDonnell Douglas* case that persons of color or women have.

Although disability law differs because neither the ADA nor the Rehabilitation Act protects persons who are not disabled from discrimination, *Ames* is important primarily because of the concurrence of Justices Thomas, which was joined by Justice Gorsuch. The concurrence argues that the Court should rethink the use of the *McDonnell Douglas* analysis in discrimination cases because it is a judge-made rule that has no basis in the text of Title VII and has caused considerable interpretive problems. Especially because the *McDonnell Douglas* test was established for use in judge trials before Title VII permitted jury trials, it falters when applied in the context of a motion for summary judgment. In fact, the Justices argue, that *McDonnell Douglas* has been interpreted to require more of a plaintiff in response to a defendant's motion for summary judgment than Rule 56 of the Federal Rules of Civil Procedure would permit. Therefore, the justices encourage the Court in a future case to take up the question of the continuing viability of the *McDonnell Douglas* test, especially in response to pre-trial motions. The viability of *McDonnell Douglas* is an important issue for ADA and Rehabilitation Act cases involving allegations of employment discrimination cases. Many employment discrimination scholars agree that *McDonnell Douglas* framework should be abandoned. *See* Katie Eyer, Sandra Sperino & Deborah Widiss, *Antidiscrimination Advocates Should Welcome Thomas's*

Overture, BLOOMBERG L. (June 16, 2025), https://news.bloomberglaw.com/us-law-week/antidiscrimination-advocates-should-welcome-thomass-overture.

Page 150, add as a preliminary note under "Proving Disparate Impact under Title VII and the ADA:"

Preliminary Note: On April 23, 2025, the White House issued an Executive Order titled, "Restoring Equality of Opportunity and Meritocracy," which requires that the government discontinue its use of disparate impact theory of liability in cases involving civil rights statutes and that all agency heads work to revise or dispose of rules and regulations that would permit liability for disparate impact. This order applies to all civil rights statutes, presumably including the ADA and Section 504 of the Rehabilitation Act.

A. Qualifications

1. Fundamental and Essential Functions

a. Attendance Requirements

Page 173, after the paragraph that begins "Assuming that attendance," add this new material:

Two post-Covid circuit court cases merit special mention. In *Kinney v. St. Mary's Health, Inc.*, 76 F.4th 635 (7th Cir. 2023), the Seventh Circuit acknowledged that technological advances, which Covid brought to the forefront, undermined its prior precedent holding that remote work disability accommodations were presumptively unreasonable. It stated as follows:

> But even a few months before the COVID-19 pandemic forced many workers to work from home, we noted that technological advances have made working from home more feasible, so that employers cannot rely on an automatic presumption working from home is unreasonable. The many lessons learned about working from home effectively during the pandemic have reinforced that point. The crux of Kinney's argument for why she should have been allowed to work from home is that she and many of her co-workers did so beginning in March 2020. The fact that many employees were able to work remotely temporarily when forced to do so by a global health crisis does not mean that those jobs do not have essential functions that require in-person work over the medium to long term. Determining whether a specific job has essential functions that require in-person work has become much more of a case-specific inquiry.

A case from the Eighth Circuit shows the flipside of remote work accommodations. Some disabled workers do not want or need remote work, and attempting to force them to work remotely without considering any other possible accommodations can violate the ADA. "Offering a willing employee a remote-work option is very different from forcing remote work on an unwilling employee as the sole option for accommodating that employee's disability." In some cases, remote work may be the only reasonable accommodation possible, even if the

employee does not want it. But all options should be explored. "[R]equiring an employee who has successfully worked in the office for years to leave the workplace permanently as the sole means for accommodating a disability—without first discussing it with him or exploring integrative alternatives—risks running afoul of the Rehabilitation Act and ADA's integrative mandates, depending on the fact-specific record in each case." *Ali v. Regan*, 111 F.4th 1264 (8th Cir. 2024).

Page 173, add to the end of the page:

Professor Shu has continued analyzing how post-Covid courts are treating remote work disability accommodations requests. She studied 151 federal court decisions from 2023 and 2024 and has concluded that the employee success rate in these cases has decreased ten percentage points since 2022 and that many courts are still engaging in erroneous analysis in these cases. A paper containing these and other results will be available on SSRN in early fall 2025 (her SSRN author page is here: https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=3544952).

E. Reasonable Accommodation and Undue Hardship

1. Health Impairments and Reasonable Accommodations

Pages 222–23, add to the end of Note 4 ("Mandatory Vaccine Policies and Exemptions as Reasonable Accommodations"):

In *Tarquinio v. Johns Hopkins Univ. Applied Physics Lab*, __ F.4th __, No. 24-1432, 2025 WL 1748716 (4th Cir. June 25, 2025), the plaintiff sued after she was fired for failing to get a Covid vaccine. The issue was whether the parties engaged in an interactive dialogue and whether the employer failed to grant the employee a reasonable accommodation. The Fourth Circuit affirmed summary judgment for the employer because the plaintiff, who had Lyme Disease and continuing problems as a result, failed to give the employer access to her doctor to discuss why she could not take the Covid vaccine and did not communicate sufficiently her reason for her need to avoid the vaccine, in light of the defendant's knowledge that the CDC had not indicated that someone with recurring symptoms for Lyme Disease should avoid the vaccine.

7. Adverse Employment Actions, Constructive Discharge, and Reasonable Accommodations

Page 244, add to Note 1 (Adverse Employment Actions and Constructive Discharge) after the first paragraph on the page:

A new Title VII Supreme Court case may affect whether an adverse employment action is necessary to bring a suit under the ADA and Section 504 for employment discrimination, especially cases brought alleging a failure to reasonably accommodate an individual. In *Muldrow v. City of St. Louis, Missouri,* 601 U.S. 346 (2024), the plaintiff alleged sex discrimination when she was transferred to another job with the same rank and pay but that had worse conditions and opportunities. The issue before the Supreme Court was whether the plaintiff needed to demonstrate substantial harm. In a unanimous opinion, the Supreme Court held that a showing of

substantial harm was not necessary, but the plaintiff merely needed to demonstrate "some harm" caused by the discriminatory treatment; in this case, the plaintiff had alleged sufficient harm.

The question raised by the *Muldrow* decision is applicable to the ADA when a plaintiff sues the employer for a failure to grant the employee a reasonable accommodation. Currently, there is a circuit split as to whether a plaintiff suing for failure to reasonably accommodate must also prove an adverse employment action. In *Strife v. Aldine Independent School District*, 134 F.4th 237 (5th Cir. 2025), the court overturned the lower court's dismissal of the plaintiff's claim that the employer, by delaying an accommodation for six months, had failed to grant her a reasonable accommodation. The plaintiff, a veteran, suffered from PTSD and numerous physical infirmities as a result of her service. She requested that the employer accommodate her by permitting her service dog to accompany her to work. Although the employer eventually agreed, it delayed for six months, with continuing requests for more proof that the plaintiff needed an accommodation. The Fifth Circuit held that the plaintiff needed to allege only those facts sufficient to show a failure to reasonably accommodate; she did not need to allege or prove an adverse employment action. Moreover, the employer's continuous delays after the plaintiff provided medical proof of her disability were indicative of its failure to engage in an interactive dialogue in good faith. Thus, the court reversed the lower court's dismissal and revived the plaintiff's complaint. As noted above, the circuits are split on the issue of whether an adverse employment action must be shown for success on a claim of failure to reasonably accommodate. In agreement with the Fifth Circuit on this issue are the Tenth, Seventh, Sixth, Fourth, Third, Second, First, and D.C. Circuits. The Eleventh, Ninth, and Eighth Circuits, however, have required a showing of additional harm.

I. Relationship of the ADA and Rehabilitation Act to Other Federal and State Laws

5. Pregnancy Discrimination and Pregnant Workers Fairness Act (PWFA)

Pages 266–67, add to the end of Pregnant Workers Fairness Act:

The EEOC issued its final rule, and the most controversial subject was the inclusion of voluntary abortion as a condition that an employer must accommodate under the PWFA. The States of Louisiana and Mississippi and four organizations affiliated with the Catholic Church challenged that portion of the rule, which was then struck down by a federal district court in Louisiana because, according to the court, the rule exceeded the power of the EEOC and unlawfully appropriated congressional power and intruded upon the rights of the plaintiff states. *See Louisiana v. E.E.O.C.*, __ F. Supp. 3d __, No. 2:24-cv-00629, 2025 WL 1462583 (M.D. La. May 21, 2025).

J. Enforcement

5. Section 503 of the Rehabilitation Act

Page 268, add the following in "2. Section 503 of the Rehabilitation Act" at the end of the first paragraph:

Proposed regulations to Section 503 would virtually gut the affirmative action requirement. *See* https://www.federalregister.gov/documents/2025/07/01/2025-12233/modifications-to-the-regulations-implementing-section-503-of-the-rehabilitation-act-of-1973-as (stating that it intends to withdraw the provision that permits individuals with disabilities to self-identify in order to allow contractors to fulfill their affirmative action goals).

Chapter 4 - Public Accommodations

B. Covered Entities

3. Telecommunications and Websites

c. Internet and Other Web-Based Communications

Page 300, add after first full paragraph:

In 2024, after lengthy consideration, the Department of Justice issued regulations regarding website access for Title II entities. These regulations recognized the significant changes in technology since the first guidance was issued. Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities (effective date, June 24, 2024); 28 C.F.R. Pt. 35; 89 Fed. Reg. 31320 to 31396, https://www.ecfr.gov/current/title-28/chapter-I/part-35/subpart-H (revised regulations providing technical design standards related to web content and mobile apps for state and local governmental entities; purpose to allow access that is quick, easy, private, independent, and equal; intended to be consistent with Section 504 requirements; adopts WCAG 2.1; has staggered compliance dates depending on size of entity; notes application to state and local public higher education; references both content and design standards). As of July 1, 2025, the Trump Administration has not challenged the validity of these regulations, but it is possible that they could be challenged consistent with the administration's general deregulatory approach. In any case, these do not apply to private entities under Title III of the ADA.
For a link to a fact sheet on the requirements for websites, mobile apps, and kiosks, see https://www.hhs.gov/sites/default/files/new-requirements-accessibility-web-content-mobile-apps-kiosks.pdf. These regulations are currently being challenged by 17 state attorneys general. *See* Chapter 1.

4. Unique Settings

b. Air Transportation

Page 305, add to Note 2 (Lost or Damaged Wheelchairs):

In 2024, Congress passed the FAA Reauthorization Act of 2024, intended to carry out the requirements of the Air Carrier Access Act. It included a number of accessibility provisions relating to passengers using wheelchairs, such as requiring training for those who assist in boarding or deplaning and providing information regarding cargo space. Although there is no private right of action directly under ACAA, the Act also requires a refund when the airline cannot accommodate the device. The Department of Transportation was directed to promulgate regulations pursuant to the 2024 statute and did so on December 17, 2024, to be effective on January 16, 2025. The airlines are currently challenging these requirements, and the Trump Administration is calling them into question as well.
https://www.federalregister.gov/documents/2024/12/17/2024-29731/ensuring-safe-accommodations-for-air-travelers-with-disabilities-using-wheelchairs.

D. Reasonable Accommodations

1. Modification of Policies, Practices, and Procedures

b. Covid Accommodation Issues

Page 334, add the following case and article in the text:

Ames v. Wash. Health Sys. Foot & Ankle Specialists, Inc., No. 2:20-cv-887, 2021 WL 4594673 (W.D. Pa. Oct. 6, 2021) (dismissing Title III, but allowing 504 claim to proceed, for patient seeking treatment for plantar warts who had skin condition seeking exemption from mask requirement during Covid; office offered telemedicine as accommodation). For discussion of these issues, see Schiltz, *The Dangers of Being Disabled in the Time of COVID*, 18 U. ST. THOMAS L.J. 405 (2022) (discussing the disproportional negative impact the pandemic had on people with disabilities as applied to health care, education, and employment).

E. Architectural Barriers

1. Covered Facilities

Page 350, add a new Note 4:

4. *Kiosk Guidance:* While accessibility design standards under the ADA for self-service transaction machines, sometimes referred to as kiosks (such as grocery checkout systems) have been discussed, proposed rulemaking is in limbo.

2. Accessibility Requirements

c. New Construction

Page 366, add at end of section:

In March 2025, the Department of Energy issued notice of proposed changes to new construction rules under Section 504 for entities receiving federal funding through DOE. The stated purpose of the new rules is to reduce costs and streamline regulations. The notice gave until June 16 for Public Comment. While this would leave ADA design standards in place, concerns have been raised about consistency for entities subject to both Section 504 and the ADA and that this proposal signals that all federal agencies might promulgate a similar rule. The outcome of this proposal should be watched for its potential far-reaching impact.

F. Enforcement

1. Air Carrier Access Act

Page 370, add at end of section:

As noted above, the proposed wheelchair handling regulations are in a state of flux. These regulations require reimbursement of ticket costs, which has implications for enforcement if finalized.

Chapter 5 - Governmental Services and Programs

D. Architectural Barriers

Page 390, add to last paragraph on new construction:

As mentioned above, in March 2025, the Department of Energy issued notice of proposed changes to new construction rules under Section 504 for entities receiving federal funding through DOE. These regulations are not yet final and have raised some concerns. See above for details (Ch. 4, section E.2.c.).

G. Access to Justice

2. Criminal Justice System

Page 425, add to the end of Note 2 (Intellectual Disability and the Death Penalty):

The Supreme Court granted certiorari in *Hamm v. Smith*, to be decided during the October 2025 term. Smith murdered Hamm and was sentenced to death. At sentencing, his lawyers argued that it would be unconstitutional to subject him to the death penalty under *Atkins* because he is intellectually disabled. Five I.Q. tests were taken. His scores ranged from 72 to 78. Under *Atkins*, an I.Q. at or below 70 is considered intellectually disabled. When considering possible error, the score of 72 would be reduced to 69, thus rendering the defendant intellectually disabled, the federal district court concluded. Once the lower court found that the defendant could have an I.Q. as low as 69, it then considered evidence of the defendant's adaptative behavior. It concluded that Smith had significant deficits in adaptive behavior that appeared before he turned 18. Thus, the court concluded, Smith is intellectually disabled and cannot be executed constitutionally. The Eleventh Circuit affirmed. *Smith v. Comm'r, Ala. Dep't of Corr.*, No. 21-14519, 2024 WL 4793028 (11th Cir. Nov. 14, 2024), *cert. granted in part*, No. 24-872, 2024 WL 1603602 (June 6, 2025). The Supreme Court granted certiorari on the question of how to treat the situation when there are multiple I.Q. test scores.

a. Police Interactions

Page 427, add to the bottom of the page before the paragraph beginning "The following case":

The Biden Administration brought civil rights lawsuits and negotiated consent decrees with Louisville and Minneapolis for civil rights violations by the police departments, including under Title II of the ADA. After President Trump took office, on May 21, 2025, the Department of Justice announced that it would dismiss the lawsuits and the consent decrees against the police departments. The DOJ announced that the Biden Administration had "accused Louisville and Minneapolis of widespread patterns of unconstitutional policing practices by wrongly equating statistical disparities with intentional discrimination and heavily relying on flawed methodologies and incomplete data." The announcement also accused the Biden Administration of subjecting the Louisville and Minneapolis police departments to "sweeping consent decrees" that "would have governed many aspects of those police departments, including their management, supervision, training, performance evaluations, discipline, staffing, recruitment, and hiring." *See* https://www.justice.gov/opa/pr/us-department-justices-civil-rights-division-

dismisses-biden-era-police-investigations-and. The DOJ also announced that it would close its investigations into other police departments across the country. *Id*.

In response, the Mayor of Minneapolis stated that they would continue to abide by the consent decree despite the federal government's withdrawal. Moreover, both police departments either have state consent decrees as well or are following the reform suggestions of the federal consent decrees in any event. *See* https://www.cbsnews.com/news/justice-department-minneapolis-louisville-police-departments/.

Page 435, add a new Note 7:

7. *ICE Detentions*: Given the Trump Administration's goals of deporting ever-increasing numbers of undocumented individuals from the United States, many more people are being detained and held before they are deported. Many of these detainees have mental and/or physical disabilities. These individuals have rights to reasonable accommodations that, apparently, many are not receiving due to the crowded conditions in the detention facilities. As of June 15, 2025, there were more than 56,000 individuals in ICE detention. Congress is funding detention for only 42,000 individuals. For a description of the problems one individual amputee is facing in an ICE facility, *see* Timothy Pratt, *Disabled People Detained by ICE Sound Alarm Over Overcrowded Jails*, GUARDIAN (Apr. 25, 2025), https://www.theguardian.com/us-news/2025/apr/25/ice-immigration-detention.

H. Voting

Page 445, add to Note 3 (Assistance with Voting):

A Texas federal district court issued an opinion in 2025 regarding a Texas statute that would have in essence criminalized voter assistance, which would have significant impact on individuals with disabilities. The court in *La Unión del Pueblo Entero v. Abbott*, 770 F. Supp. 3d 974 (W.D. Tex. 2025), held that this statute violated federal voting rights laws by creating a significant barrier.

Chapter 6 - Higher Education

A. Introduction and Overview

Page 456, add to the end of introduction:

At the time of this Supplement preparation, the federal government was sending mixed signals on how civil rights protections would be enforced when a university receives federal financial assistance (which almost all do). This is an issue to watch going forward. In addition, attacks on DEI (diversity, equity, and inclusion) have the potential for impacting individuals with disabilities on campus. That also should be watched.

D. The Enrolled Student

1. Auxiliary Aids and Services

Page 505, add to Note 4 (Implications of Budget Limitations):

The dramatic increase in the availability of artificial intelligence (AI) as a tool for providing a number of auxiliary aids and services (such as interpreters and readers) raises potential budget implications. While in many cases, it may be less expensive to provide such services, having the technology support staff to assist in implementation could raise a potential budgetary and resource limitation in terms of creating positions and finding skilled workers to fill them.

3. Behavior and Conduct Issues

Page 530, add a new Note 9:

9. *Neurodiversity:* The increasing awareness and understanding of neurodiversity, including in institutions of higher education, suggests the possibility that some behaviors related to neurodiverse conditions may lead to more requests for accommodations related to these conditions.

4. Obligations after Disqualification

Page 534, add to Note 3 (Neurodiversity Issues):

The increased awareness of neurodiversity issues may result in revisiting how to address behavior and conduct issues that lead to an identification of a condition that may qualify as a disability. While it may not change the judicial trend that misconduct not be excused and that second chances are not required if the student has not requested an accommodation, institutions of higher education should connect with high schools where students received accommodations and make those students aware that the burden to request accommodations shifts to them in higher education.

5. Athletics

Page 537, add a new Note 10:

10. *Transgender Athletes:* A Fourth Circuit decision treating gender dysphoria as a disability creates challenges about transgender athletes' participation in higher education sports. *Williams v. Kinkaid*, 45 F.4th 759 (4th Cir. 2022), *cert. denied*, 143 S. Ct. 2414 (2023). In July 2025, the Supreme Court agreed to hear two cases involving bans on transgender girls and women participating on female athletic teams. *See Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024), *cert. granted*, No. 24-38, 2025 WL 1829165 (July 3, 2025); *B.P.J. v. West Virginia*, 98 F.4th 542 (4th Cir. 2024), *cert. granted*, No. 24-43, 2025 WL 1829164 (July 3, 2025).

E. Architectural Barrier and Facility Issues

2. Other Facilities Issues

Page 551, add a new Note 4:

4. *New Construction Design Standard May be Affected:* The Trump Administration actions noted in Chapters 4 and 5, above, have the potential for affecting new construction standards if these proposed regulations extend to other federal agencies.

F. Faculty Issues

Page 551, add to the end of Note 2 (Covid-Related Issues):

As did many universities, Kutztown University took its instruction fully online at the beginning of the pandemic. When it returned to in-person instruction, it implemented a blanket policy and denied remote work accommodations requests from many professors—without any assessment of their individual circumstances. The court ruled that this violated the ADA and granted summary judgment in favor of the professors. *See Gardner v. Kutztown Univ*., No. 22-1035, 2024 WL 1321068 (E.D. Pa. Mar. 27, 2024); *see also Greene v. Bd. of Regents of Univ. Sys. of Ga.*, No 1:22-cv-04309, 2024 WL 3912696 (May 20, 2024) (denying university's motion for summary judgment; music professor of Georgia school needed to live in California due to atmospheric mold present in Georgia, and he taught online during Covid and for years before; he returned to campus in Georgia for short periods as needed for in-person activities; despite school's strong preference for in-person instruction, each case much be evaluated individually), *report & recommendation adopted as modified*, 742 F. Supp. 3d 1271 (N.D. Ga. 2024).

G. Other Issues

2. Technology

a. Course Materials and Other Teaching Issues

Page 554, add to the end of the section:

The increase in development and use of artificial intelligence (AI) creates opportunities and concerns in higher education. Among the potential benefits for those with disabilities are automated image description, audio description generation, captioning, lipreading, and voice

recognition. Rob Gibson, *The Impact of AI in Advancing Accessibility for Learners with Disabilities*, EDUCAUSE (Sept. 10, 2024), https://er.educause.edu/articles/2024/9/the-impact-of-ai-in-advancing-accessibility-for-learners-with-disabilities. As this technology develops, policymakers and the judiciary will certainly address issues about what higher education institutions are required to implement.

b. Websites

Page 556, add to the last paragraph of this section:

As noted in Chapter 4 above, new Title II design standards for websites have been promulgated, but challenges to them are in process. Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities (effective date, June 24, 2024); 28 C.F.R. Pt. 35; 89 Fed. Reg. 31320 to 31396, https://www.ecfr.gov/current/title-28/chapter-I/part-35/subpart-H (revised regulations providing technical design standards related to web content and mobile apps for state and local governmental entities; purpose to allow access that is quick, easy, private, independent, and equal; intended to be consistent with Section 504 requirements; adopts WCAG 2.1; has staggered compliance dates depending on size of entity; notes application to state and local public higher education; references both content and design standards). In any case, these do not apply to private entities under Title III of the ADA, so even if effective, they would only apply to state and locally operated institutions of higher education.

The Department of Health and Human Services issued regulations in 2024 on web and mobile accessibility. The final rule defines what accessibility means for websites and mobile applications and requires compliance with specific technical standards, the Web Content Accessibility Guidelines (WCAG) 2.1 AA. This approach aligns the with the new Title II standards. https://www.hhs.gov/sites/default/files/new-requirements-accessibility-web-content-mobile-apps-kiosks.pdf.

Chapter 7 - Elementary and Secondary Education

A. Introduction and Overview

Page 563, add immediately before 1. Chapter Goals:

The U.S. Department of Education plays an important role in educating students with disabilities. It distributes billions of dollars of federal funding, much of which relates to how schools implement the IDEA. Indeed, the IDEA mandates that an Office of Special Education inside the Education Department "shall be the principal agency in the Department for administering and carrying out this chapter and other programs and activities concerning the education of children with disabilities." 20 U.S.C. § 1402(a). The Education Department's Office of Civil Rights (OCR) investigates complaints from parents about mistreatment of disabled children. This is all in jeopardy because of President Trump's actions. First, mass firings in the Education Department undermine its ability to do its important work, particularly for the OCR, where at least 243 staffers were fired and 7 of the 12 regional branches were closed in March 2025. Second, Trump signed an Executive Order, also in March 2025, calling for the Education Department to be closed. He later announced that "special needs" programs will be moved to the Health and Human Services Department, which has no experience or expertise in handling these issues. Congressional action would be needed to abolish the Education Department and to amend the IDEA's mandate regarding the Office of Special Education. Litigation is ongoing regarding all of these issues. *See* Michelle Diament, *Ed Department Faces Questions about Future of Special Education*, DISABILITYSCOOP (Apr. 8, 2025), https://www.disabilityscoop.com/2025/04/08/ed-department-faces-questions-about-future-of-special-education/31398/; Michelle Diament, *Ed Department Cuts May Leave Students with Disabilities "Little to No Recourse"*, DISABILITYSCOOP (Mar. 18, 2025), https://www.disabilityscoop.com/2025/03/18/ed-department-cuts-may-leave-students-with-disabilities-little-to-no-recourse/31362/; Jennifer Smith Richards & Jodi S. Cohen, *A Teacher Dragged a 6-Year-Old with Autism by His Ankle. Federal Civil Rights Officials Might Not Do Anything*, PROPUBLICA (May 20, 2025), https://www.propublica.org/article/garrison-school-illinois-autistic-student-dragged-ankle

Sequential Listing of Key Statutes and Supreme Court Decisions

Page 567, add after Perez:

2025 *A.J.T. v. Osseo Area Schools*

Heightened standard (bad faith or gross misjudgment) not required for ADA or Section 504 claims based on educational services for disabled children

B. Relationship Between the Individuals with Disabilities Education Act and Other Constitutional and Statutory Requirements

Page 571, add a new Note 3:

3. *No Higher Standard for ADA and Section 504 Claims:* In a case involving an improper educational placement with claims under the IDEA and Section 504, the Eighth Circuit attempted to harmonize the IDEA and Rehabilitation Act's requirements and held that "something more" was needed to show a 504 violation than merely a denial of FAPE under the IDEA. That something more was "bad faith or gross misjudgment." *See Monahan v. Nebraska*, 697 F.2d 1164 (8th Cir. 1982). This standard caught on, leading it to be routinely applied in ADA and Section 504 cases in many circuits. This standard is higher than is required in any other type of disability discrimination case. The U.S. Supreme Court unanimously rejected that rule in *A.J.T. v. Osseo Area Schools*, holding that "ADA and Rehabilitation Act claims based on educational services should be subject to the same standards that apply in other disability discrimination contexts." The Court further stated, "Nothing in the text of Title II of the ADA or section 504 of the Rehabilitation Act suggests that such claims should be subject to a distinct, more demanding analysis." *A.J.T. v. Osseo Area Schs., Indep. Sch. Dist. No. 279*, 145 S. Ct. 1647 (2025).

It is worth noting that, after the Court granted certiorari in *A.J.T.*, the school district advanced a new argument—that this heightened standard should actually apply to all disability discrimination claims, not just ones in the educational context under the ADA or Section 504 (as it had argued below and in its certiorari petition). The Court declined to consider that argument because it was raised too late, but in a concurrence, Justice Thomas (joined by Justice Kavanaugh) indicated that he was open to considering that argument in an appropriate case. Justice Sotomayor (joined by Justice Jackson), in a separate concurrence, explained why that higher standard is unfounded and inconsistent with the language and purposes of the statutes.

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

Page 641, add to Note 7 (Covid Issues), as the new first citation after the first sentence:

Doe v. Franklin Square Union Free Sch. Dist., 100 F.4th 86 (2d Cir.) (leaving open cause of action under IDEA, ADA, and Section 504 for student with asthma who was denied an exemption from a mask mandate, but also denied remote education), *cert. denied*, 145 S. Ct. 570 (2024).

Page 641, add to Note 7 (Covid Issues), before the paragraph beginning "In L.E.":

In some cases, the plaintiff won injunctive relief only to have the appellate courts vacate it as moot based on changed circumstances, such as declining infection rates. *See Doe 1 v. N. Allegheny Sch. Dist.*, 580 F. Supp. 3d 140 (W.D. Pa. 2022), *vacated as moot*, No. 21-1141, 2022 WL 2951467 (3d Cir. Mar. 1, 2022); *Arc of Iowa v. Reynolds*, 566 F. Supp. 3d 921 (S.D. Iowa 2021), *vacated as moot*, 33 F.4th 1042 (8th Cir. 2022). For a discussion of masks in schools, see

Claire Raj & Crystal Grant, *Masks, Mayhem, and the Future of Disability Rights in Schools*, 25 N.Y.U. J. LEGIS. & PUB. POL'Y 247 (2023) (demonstrating that the differing outcomes of mask mandate litigation across the country exemplify the utter confusion courts face with respect and disability discrimination claims in K-12 schools and suggesting that amending Section 504 to include a modified reasonable accommodation framework would create a unified understanding and application of Section 504).

Chapter 8 - Housing and Independent Living

C. Reasonable Accommodations

3. Accommodations for Service and Emotional Support Animals

Page 688, add to Note 1 (Documentation):

An unusual decision addressed the issue of documenting the connection between the emotional support dog and the disability. The court held that because the tenant had not requested two emotional support dogs when she submitted her rental unit application, and that she had not provided documentation that two dogs were necessary, the tenant who was granted one dog based on her application could be prohibited from having two dogs. *Comm'n on Hum. Rts. & Opportunities v. Mansions, LLC*, 332 A.3d 933 (Conn. App. Ct. 2025).

D. Structural Barriers

Page 690, add to introductory paragraph:

As noted above, in Chapters 4 and 5, there are signals that regulations about design standards for new construction are being challenged. While the initial federal administrative policy comes from the Department of Energy for entities receiving federal funding, it is possible that this approach might be extended to federally funded housing or even private housing under the Fair Housing Act.

E. Least Restrictive Environment and Independent Living

Page 718, add to Note 3 (Homelessness and Mental Health Challenges for Community Living) before the final paragraph:

In May 2024, the Department of Health and Human Services promulgated Final Regulations under Section 504 on a number of issues, including the provision of care and housing in communities. It provides that services should be provided in the "most integrated setting," defined as "a setting that provides individuals with disabilities the opportunity to interact with nondisabled persons to the fullest extent possible. These settings provide opportunities to live, work, and receive services in the greater community, like individuals without disabilities; are located in mainstream society; offer access to community activities and opportunities at times, frequencies and with persons of an individual's choosing; and afford individuals choice in their daily life activities." 89 Fed. Reg. at 40,183. These regulations are under challenge by the State of Texas and 16 other states in the Northern District of Texas. *See Complaint*, *Texas v. Becerra*, No. 5:24-cv-00225 (N.D. Tex. Sept. 26, 2024), ECF No. 1 (the case is now called *Texas v. Kennedy*). The outcome of that challenge may affect how this issue is addressed by policymakers and courts going forward.

A decision by a federal district court is significant because of its lengthy (485 pages) opinion regarding a class action of individuals with intellectual and developmental disabilities. The court held that the members of the class were unnecessarily institutionalized in nursing facilities, in violation of the ADA and the Medicaid Act. The parties were ordered to submit a proposed remedial plan by August 1, 2025. *See* Findings of Fact & Concl. of Law, *Steward v. Young*, No. 5:10-cv-01025 (W.D. Tex. June 17, 2025), ECF No. 717.

Chapter 9 - Health Care and Insurance

A. Introduction and Overview

Page 723, add as a new paragraph after the second paragraph:

The Department of Health and Human Services recently recognized this problem, stating:

> While Section 504 has prohibited discrimination in any program or activity receiving Federal financial assistance since it was enacted in 1973, people with disabilities still face inequities in the medical treatment options that providers offer to them. Discrimination on the basis of disability in accessing medical care leads to significant health disparities and poorer health outcomes for people with disabilities. Stereotypes and bias too often play fundamental roles in denying people with disabilities access to health care. Research, including reports by the National Council on Disability, states that large portions of practicing physicians hold biased or stigmatized perceptions of people with disabilities, perceiving them to have a lower quality of life because of their disabilities.

Dear Colleague Letter, Jan. 7, 2025, https://www.hhs.gov/sites/default/files/ocr-dcl-section-504-section-1557-disability.pdf.

Page 724, add as a new paragraph after the paragraph starting "The cost of health care":

Medicaid is not discussed much in this chapter, but it is important to note that it, along with the ACA, is a significant source of health care access for children and elderly people with disabilities. President Trump's One Big Beautiful Bill Act (approved by the Senate and House of Representative in July 2025) jeopardizes this access. The Bill cuts nearly $1 trillion from health care programs, the vast majority from Medicaid. This is largest cut to Medicaid since its inception in the 1960s. The Bill will likely result in the loss of health care coverage for millions of Americans and raise the cost of care, and disabled people will be disproportionately impacted. For a summary of these impacts signed by 1,100 disability-related organizations, see https://c-c-d.org/fichiers/Senate-Aging-Disability-Letter-from-1100-Organizations-on-Medicaid-and-FY25-Reconciliation-Bill.pdf; *see also* Rita K. Kuwahara, *House Passes "Big Beautiful Bill": Here's What It Means for Health Care*, HEALIO (July 3, 2025), https://www.healio.com/news/primary-care/20250703/house-passes-big-beautiful-bill-heres-what-it-means-for-health-care.

B. Nondiscrimination in Health Care Services

Page 728, add to the bottom of the page:

In 2024, the Department of Health and Human Services updated the regulations for both Section 504 and the nondiscrimination provision of the ACA. The new Section 504 regulations address key areas of concern in the health care system, including medical treatment decisions, digital technology, medical diagnostic equipment, and effective communication. These issues

will be addressed in more detail throughout this chapter. The existing ACA regulations already covered many of these issues, and the new regulations further strengthen protections for disabled people accessing the health care system. For an overview of the key health care provisions in these new regulations, see the HHS's Dear Colleague letter issued January 7, 2025, https://www.hhs.gov/sites/default/files/ocr-dcl-section-504-section-1557-disability.pdf.

Page 734, add to the end of Note 4 (Medicaid Prioritization and Health Care Rationing):

The 2024 Section 504 regulations specifically prohibit such behavior. Covered health care providers "may not deny or limit medical treatment to a qualified individual with a disability when the denial is based on:

(i) Bias or stereotypes about a patient's disability;
(ii) Judgments that the individual will be a burden on others due to their disability, including, but not limited to caregivers, family, or society; or
(iii) A belief that the life of a person with a disability has lesser value than the life of a person without a disability, or that life with a disability is not worth living."

45 C.F.R. § 84.56(b)(1); *see also id.* § 84.57 (prohibiting use of any value measure, tool, or assessment "that discounts the value of life extension on the basis of disability").

Page 742, add to the end of Note 6 (Reproductive Freedom for People with Disabilities):

A 2025 survey from the Disability Rights Education & Defense Fund and Women Enabled International called *Lessons from the Disability and Abortion Access Survey* details common barriers disabled people face in the current abortion care landscape. *See* https://womenenabled.org/wp-content/uploads/2025/06/052325-WEI-Lessons-from-the-Disability-and-Abortion-Access-Survey-Access-Pass.pdf.

Page 742, add to the end of Note 7 (Abortion Restrictions):

Recent data indicates, in fact, that in states with severe abortion restrictions, the rate of infants born with congenital abnormalities and the infant mortality rates have spiked since the abortion restrictions took effect. *See Two New Studies Provide Broadest Evidence to Date of Unequal Impacts of Abortion Bans*, JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH (Feb. 13, 2025), https://publichealth.jhu.edu/2025/two-new-studies-provide-broadest-evidence-to-date-of-unequal-impacts-of-abortion-bans.

Page 742, add a new Note 8:

8. *Reproductive Control Meets End of Life:* Adriana Smith, a woman living in Georgia, was nine weeks pregnant when she was declared brain-dead in February 2025 after having a stroke. Rather than allowing her family to decide about how to proceed, the hospital forced Smith to stay on life support because of her pregnancy. Smith's mother said this: "I'm not saying we would have chose[n] to terminate her pregnancy. What I'm saying is, we should have had a choice." Doctors said that Georgia's abortion law, which bans abortion once fetal cardiac activity

can be detected (around 6 weeks), required them to keep Smith's body alive. Smith was on life support for more than four months, until her baby was born prematurely via c-section in June 2025. He weighed 1 pound, 13 ounces. After he was born, Smith's family was allowed to take her off life support, and her body died, as her brain had months before. *See* Praveena Somasundaram, *Brain-Dead Woman Taken Off Life Support After Delivering Baby, Family Says*, WASH. POST (June 18, 2025), https://www.washingtonpost.com/nation/2025/06/18/georgia-pregnant-life-support-birth/. This scenario raises myriad legal and ethical issues. *See* Christine Henneberg, *The Adriana Smith Case Was an Ethical Disaster*, ATLANTIC (June 24, 2025), https://www.theatlantic.com/health/archive/2025/06/adriana-smith-fetal-personhood-medical-ethics/683297/.

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

Page 753, add to the end of the paragraph that begins with "A related challenge":

The updated Section 504 regulations of 2024 include provisions regarding accessibility of medical diagnostic equipment (MDE). The regulations prohibit discrimination that occurs if the MDE "is not readily accessible or usable by persons with disabilities." They mandate certain percentages of newly acquired MDE to be accessible as per the standards from the U.S. Access Board. Providers must also ensure staff are qualified to properly use the equipment. As for existing equipment, the rule requires that programs and services be offered so that, when viewed in their entirety with the use of their equipment, the programs and services are "readily accessible to and usable by individuals with disabilities." These requirements are subject to fundamental alteration and undue burden defenses. *See* 45 C.F.R. §§ 84.90–84.94. The Department of Justice also updated the ADA's Title II regulations in 2024 to provide similar requirements for MDE used by state and local governments. *See* 28 C.F.R. §§ 35.210–35.213.

Page 764, add to Note 4 (Effective Communication) before the paragraph starting with "Many court cases":

The 2024 Section 504 regulations address communications issues and require providers to "take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others." Specific rules are provided regarding auxiliary aids and services, interpreters, telecommunications, and signage. These requirements are subject to fundamental alteration and undue burden defenses. *See* 45 C.F.R. §§ 84.77–84.81; *see also* 45 C.F.R. § 92.202 (new ACA regulations covering effective communications, including auxiliary aids and services).

Add to Note 3 (Service Animals) on page 770:

The new 2024 Section 504 regulations basically align ADA and Section 504 requirements to permit trained service dogs consistent with ADA standards. *See* 45 C.F.R. § 84.10.

Page 770, add a new Note 6:

6. *Web, Mobile, and Kiosk Accessibility:* The new 2024 Section 504 regulations include specific provisions for web, mobile, and kiosk accessibility. The expanded use of kiosks in medical settings can be limiting for individuals with disabilities who may not be able to use them, such as someone with a severe visual impairment. The regulations prohibit anyone from being denied any benefits or services provided through a kiosk on the basis of disability. Services provided through web content or mobile apps must also be accessible, based on the criteria of the Web Content and Accessibility Guidelines. *See* 45 C.F.R. §§ 84.82–84.89; *see also* Chapter 4(B)(c)(3) and 4(E)(4) *supra.* The new ACA regulations also require that "health programs and activities provided through information and communication technology are accessible to individuals with disabilities." 45 C.F.R. § 92.204(a).

E. Health Insurance

Page 775, in the paragraph that starts with "In addition to these three Supreme Court existential challenges," replace the last sentence and citations in the paragraph with:

Another dispute that made it to the Supreme Court involves religious objections to some of the preventative care mandates, including covering drugs such as pre-exposure prophylaxis (PrEP) drugs that prevent HIV transmission. *See Kennedy v. Braidwood Mgmt., Inc.*, 606 U.S. __, No. 24-316, 2025 WL 1773628 (June 27, 2025). The Court reviewed only a constitutional challenge to the requirement that insurers must provide free coverage to services recommended by the United States Preventative Services Preventative Task Force. The challenge involved the process for how members of this task force are appointed. The Court held, in June 2025, that the process was constitutional because the Secretary of Health and Human Services can review the task force's recommendations and can remove its members at will. Thus, even though the Court upheld the current task force's requirements (by not declaring the task force unconstitutional), their future remains uncertain because HHS Secretary Robert F. Kennedy, Jr. could, as he did with the CDC's vaccine advisory panel, remove all members and replace them with people who are hostile to the current requirements (for example, PrEP coverage). *See* Laurie Sobel et al., *Kennedy v. Braidwood: The Supreme Court Upheld ACA Preventative Services but That's Not the End of the Story*, KFF (June 27, 2025), https://www.kff.org/policy-watch/kennedy-v-braidwood-the-supreme-court-upheld-aca-preventive-services-but-thats-not-the-end-of-the-story/. Also, the litigation is ongoing with regard to the substance of the religious objections and the validity of recommendations from two other bodies. *See Braidwood Mgmt., Inc. v. Becerra*, 104 F.4th 930 (5th Cir. 2024), *rev'd in part*, No. 34-316, 2025 WL 1773628 (June 27, 2025); Katie Keith et al., *Supreme Court Upholds Preventive Services Requirement Under ACA*, HEALTH AFFS. FOREFRONT (July 1, 2025), https://www.healthaffairs.org/content/forefront/supreme-court-upholds-preventive-services-requirement-under-aca.

Page 784, add to the end of Note 3 (Applicability of the ADA to Employer-Provided Insurance):

The Supreme Court decided a case involving employer-provided health insurance and Title I of the ADA in June 2025. *See Stanley v. City of Sanford, Fla.*, 606 U.S. __, No. 23-997, 2025 WL 1716138 (June 20, 2025). For a summary of that case, see Chapter 3(B)(1) *supra*. The Court held that Title I does not cover the retired firefighter's claim for her lost health insurance benefits because she was not a "qualified individual." Qualified individuals are only those who hold or seek a job and can perform all of its essential functions, with or without reasonable accommodation. *See* Chapter 3 (section 3.E). The Court reasoned that retirees who neither hold nor seek a job are not qualified individuals, even if they were fully qualified while working and at the time they earned the retirement insurance benefit.

Page 784, add as a new paragraph at the end of Note 4 (Insurance Coverage for Gender-Affirming Care):

In *United States v. Skrmetti*, 145 S. Ct. 1816 (2025), the U.S. Supreme Court held that the Equal Protection Clause of the Fourteenth Amendment does not prohibit states from banning gender-affirming care (such as hormones and puberty blockers) for minors. The case involved Tennessee's law, but many other states have similar laws, and that number could now grow. Some fear that this decision could fuel attempts on restricting insurance coverage for gender-affirming care for adults or open the door to bans of that care altogether. *See* Mary Anne Pazanowski, *Supreme Court Transgender Care Ruling Leaves Key Questions Open*, BLOOMBERG L. (June 25, 2025), https://www.bloomberglaw.com/product/blaw/bloomberglawnews/bloomberg-law-news/X48D3Q8G000000; Kathrina Szymborski Wolfkot, *Reflections on the Supreme Court's Decision Upholding a Ban on Gender-Affirming Care for Trans Youth*, ST. CT. REP. (June 25, 2025), https://statecourtreport.org/our-work/analysis-opinion/reflections-supreme-courts-decision-upholding-ban-gender-affirming-care. Indeed, less than two weeks after *Skrmetti*, the Supreme Court granted two petitions for certiorari and vacated a Fourth Circuit decision that had upheld access to gender-affirming care under two state-run health insurance plans. *See Kadel v. Folwell*, 100 F.4th 122 (4th Cir. 2024). The Court remanded the cases to be reconsidered in light of *Skrmetti*. *See Folwell v. Kadel*, No. 24-99, 2025 WL 1787687 (June 30, 2025); *Crouch v. Anderson*, No. 24-90, 2025 WL 1787678 (June 30, 2025). The Supreme Court is not finished ruling on transgender rights issues; in July 2025, it agreed to hear two cases involving transgender girls and women participating on female sports teams. *See Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024), *cert. granted*, No. 24-38, 2025 WL 1829165 (July 3, 2025); *B.P.J. v. West Virginia*, 98 F.4th 542 (4th Cir. 2024), *cert. granted*, No. 24-43, 2025 WL 1829164 (July 3, 2025).

Given that the Equal Protection route has failed to protect gender-affirming care, at least for minors, litigants might rely even more on the ADA to fight discriminatory actions. *See* William Goren, *The Equal Protection Classification of Transgender Individuals and its Implications for the ADA Going Forward*, UNDERSTANDING THE ADA (June 20, 2025), https://www.understandingtheada.com/blog/2025/06/20/the-equal-protection-classification-of-transgender-individuals-and-its-implications-for-the-ada-going-forward/.

Statutory Appendix

Preface

Page 791, add to the end of the fifth paragraph:

Although courts have historically given substantial deference to federal agency regulations, that is changing. See the discussion above (Chapter 1) for more details.

Section 4: Regulatory Background, Citations to Statutes and Key Regulations, and Links to Federal Agency Websites

A. Regulatory Background

Page 823, add to the bottom of the page:

Effective July 8, 2024, the Department of Health and Human Services issued broad-scale amendments to the Section 504 regulations. These new regulations cover a wide array of topics, including discrimination in medical treatment, child welfare programs and activities, web and mobile application accessibility, accessible medical equipment, and providing programs and services in the most integrated setting possible, service animals, gender dysphoria, wheelchairs and other mobility devices, auxiliary aids and services, the direct threat defense, and retaliation. For more information about these changes, see https://www.hhs.gov/civil-rights/for-individuals/disability/section-504-rehabilitation-act-of-1973/part-84-final-rule-fact-sheet/index.html; 89 Fed. Reg. 40066 (May 9, 2024), https://www.govinfo.gov/content/pkg/FR-2024-05-09/pdf/2024-09237.pdf.

B. Citations to Statutes and Key Regulations

Page 825, add this before the first bullet point under heading "9. Patient Protection and Affordable Care Act (Obamacare, ACA) 42 U.S.C. §§ 18111–18122":

- 45 C.F.R. Part 92

Page 825, replace the text under the heading "10. Pregnant Workers Fairness Act (PWFA) 42 U.S.C. § 2000gg to 2000gg-6" with the following:

- 29 C.F.R. Part 1636