

Disability Law: A Guide to Online Resources

By Julia Dale

June marked the 20th anniversary of the Americans with Disabilities Act (ADA) and gave me cause to reflect on the first five years of my professional career. During that time, I worked for the Michigan Department of Civil Rights, drafting and investigating discrimination complaints. To this day, I would say that the more difficult cases were consistently those involving allegations of disability discrimination. Not only were these cases more complex, but they were also filed more frequently (second only to those based on race).

The practice of disability law is as broad as it is complex, extending far beyond the realm of employment-related issues and into the fields of education law, housing law, law enforcement, public accommodation, public service, and emergency management/preparedness. Disability claims may arise from either federal or state statutes, and often fall under the purview of one or more government agencies, such as the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development (HUD). Many agencies having authority over areas involving the rights of the disabled maintain excellent websites containing information such as links to the related statutes, recent decisions, and a section for frequently asked questions. Among the most notable are:

- U.S. Department of Housing and Urban Development, Information for Disabled Persons http://portal.hud.gov/portal/page/portal/HUD/topics/information_for_disabled_persons
- U.S. Equal Employment Opportunity Commission, Disability Discrimination <http://www.eeoc.gov/laws/types/disability.cfm>

- U.S. Department of Justice, Civil Rights Division <http://www.justice.gov/crt/>
- U.S. Department of Education, Office of Civil Rights <http://www2.ed.gov/about/offices/list/ocr/docs/hq9805.html>
- Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities <http://www.disabilitypreparedness.gov/index.htm>

The ADA and the Persons with Disabilities Civil Rights Act (PWDCRA) should be the cornerstone for any disability research. With this starting point, it is important to note that significant changes were made to the ADA, effective January 1, 2009, by means of the Americans with Disabilities Act Amendments Act of 2008. These changes directly impacted the definition and application of the term “disability.” The amendment provides “that the definition of disability under the ADA... shall be construed in favor of broad coverage to the maximum extent permitted by the terms of the ADA as amended, and the determination of whether an individual has a disability should not demand extensive analysis. The Amendments Act makes important changes to the definition of the term ‘disability’ by rejecting the holdings in several Supreme Court decisions and portions of EEOC’s ADA regulations.”¹ A full version of the ADA is available at <http://www.ada.gov/pubs/ada.htm>, and the PWDCRA is available at http://www.michigan.gov/documents/PWDCRA_10-05_115444_7.pdf.

Although the ADA and PWDCRA are comprehensive statutes, they are not the only authority on the rights of and obligations to the disabled. In fact, there are many stat-

utes whose authority overlaps that of the above, including the Individuals with Disabilities Education Act, Fair Housing Act, Rehabilitation Act, and Architectural Barriers Act. The U.S. Department of Justice provides a helpful summary of the ADA and other applicable statutes in its publication titled *A Guide to Disability Rights Law*,² which is available online at no cost. Summaries and analysis of current disability law are also provided by the American Bar Association (ABA) Commission on Mental and Physical Disability Law via a subscription to the ABA Comprehensive Disability Law Service (see <http://new.abanet.org/disability/Pages/default.aspx>).

Many excellent online resources are available without a subscription. The ADA home page at <http://www.ada.gov> is the most comprehensive site for all things related to disability. It includes numerous links to information on topics such as ADA regulations, federal agencies with ADA authority, publications, enforcement, best practices, emergency preparedness, accessible design standards, mediation programs, tax incentives for businesses, and much more.

For those without subscriptions to Westlaw or LexisNexis, an ADA caselaw database provides free access to decisions under Title I, Title II, and Title III of the act at <http://www.adacaselaw.org>. Free access to Supreme Court decisions from 1990 to the present are available through Cornell University Law School’s database at <http://www.law.cornell.edu/supct/>. If you are seeking current litigation information (including new decisions or lawsuits, consent decrees, and amicus briefs), recent settlement agreements (formal and informal), or mediation results, the ADA home page is again your source, providing regular status reports courtesy of the Department of Justice at <http://www.ada.gov/enforce.htm>.

Information related to workplace accommodations may be found at the Job Accommodation Network (JAN) website at <http://askjan.org>. As comprehensive as the ADA home page, this site is *the* online resource for questions related to accommodations in the workplace. The JAN site identifies particular audiences and, based on the selection, provides relevant information and resources. The site also includes an alphabetical list of disabilities and an accommodations database.

The rights of the disabled are addressed in many statutes and fall under the authority of several agencies at both the state and federal levels. Claims arising under the PWDCRA have a statute of limitations of 180 days and may be brought to the Michigan Department of Civil Rights (MDCR) for investigation and enforcement. The MDCR also contracts with both the EEOC and HUD for the taking and investigation of complaints; therefore, claims arising within Michigan under the ADA may be processed and

investigated by this state entity. Under federal law, the statute of limitations for employment-based complaints is 180 days; however, the statute of limitations is extended to 300 days if the claim is covered by state or local discrimination laws.³ The statute of limitations for housing-based complaints is 365 days.⁴ Additionally, complaints alleging disability discrimination may be filed directly with the EEOC (if the employer has more than 15 employees), HUD, and the U.S. Department of Education.⁵

Instructions for filing a complaint with the MDCR may be found on its website at http://www.michigan.gov/mdcr/0,1607,7-138-42240_43561-153171--,00.html. The EEOC provides an online assessment tool for filing a charge at <https://egov.eeoc.gov/eas>. HUD and the U.S. Department of Education provide online complaint forms at <http://www.hud.gov/offices/fheo/online-complaint.cfm> and <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>, respectively. ■

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FOOTNOTES

1. *Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, as amended*, 74 Fed Reg 183 (proposed September 23, 2009), p 48432, available at <<http://edocket.access.gpo.gov/2009/E9-22840.htm>>. All websites cited in this article were accessed July 7, 2010.
2. U.S. Department of Justice, Civil Rights Division, Disability Rights Section, *A Guide to Disability Rights Laws* (September 2005), available at <<http://www.ada.gov/cguide.pdf>>.
3. 42 USC 2000e.
4. 42 USC 3610.
5. 42 USC 12111(5)(A).