



NATIONAL EMPLOYMENT LAW INSTITUTE

*Twenty-Fifth Annual*

# ADA & FMLA COMPLIANCE UPDATE

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

**San Francisco, CA**

April 2-3, 2015

Westin St. Francis

**Chicago, IL**

April 16-17, 2015

Four Seasons Hotel

**Washington, DC**

April 30-May 1, 2015

Ritz-Carlton Pentagon City

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*National Employment Law Institute • Golden, Colorado*

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### REGISTRATION FEE INCLUDES:

- 2015 ADA & FMLA Compliance Manual (*in both searchable CD and print formats*).
- **12 - 14.5 CLE / HRCI / CEU hours, depending upon the jurisdiction**, and CLE filing in all states where you're licensed for no additional charge.
- Expanded Continental Breakfast both mornings.
- Luncheon hosted by NELI, an opportunity to network with other participants and participating faculty.

### 2015 ADA & FMLA COMPLIANCE MANUAL

*(searchable CD & print formats)*

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

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

## REGISTRATION AND ORDER FORM

Please accept my registration for the:

### 2015 ADA & FMLA COMPLIANCE UPDATE

- San Francisco, CA, April 2-3 • Westin St. Francis  
 Chicago, IL, April 16-17 • Four Seasons Hotel  
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Registration Fee: .....\$945.00

Early Registration Fee: .....\$895.00

(Paid Registration received by March 11, March 25, and April 8, respectively.)

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

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Print \_\_\_ copies @ \$169.00.....

Searchable CD \_\_\_ copies @ \$149.00.....

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(Note: Confirmations and program announcements sent via e-mail.)

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(Describe) \_\_\_\_\_

CLE CREDIT: Provide state and bar numbers. _____ _____
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### REGISTRATION INFORMATION

**Early registration is advised.** Registrations will be confirmed by e-mail or another method if requested. On-site registrations are subject to space availability.

**Registration Fee: \$945.00 • Early Discounted Fee: \$895.00 if payment is received prior to March 11 (San Francisco), March 25 (Chicago), and April 8 (Washington, DC). Payment in full is required prior to the program.**

**Group Rates, Discounts and Substitutions** are available and permissible. Email [neli@neli.org](mailto:neli@neli.org) for more information.

**Cancellation Policy:** Cancellations must be confirmed in writing and addressed to the Registrar. Registrations cancelled more than ten business days prior to the program may elect to receive a full fee credit, or a refund, less a \$150.00 administrative fee. Those cancelled ten or fewer business days prior to the program will receive a fee credit, less a \$250.00 administrative fee. Transfers between cities must be pre-approved. Fee credits may be applied during the next 12 month period to any of NELI's programs or publications. Paid no-shows will receive the program Manual upon request in full consideration of fees paid. Unpaid cancellations and unpaid no-shows are liable for the registration fee. Any refunds will be processed after the conclusion of the program series.

### CONTINUING EDUCATION

This program will provide between **12-14.5 CLE / HRCI / CEU hours**, depending upon the jurisdiction. NELI's programs are approved for CLE credit in all jurisdictions with mandatory CLE requirements. To apply for CLE credit, please complete box on registration form. NELI will provide the necessary forms and proof of attendance. NELI is a State Bar of California MCLE approved provider, is recognized by professional associations as an approved CEU/CPE provider, and is an approved provider of HRCI for recertification credit.

As always, **NELI will file in as many jurisdictions/states as you are licensed for no additional fee**, although registrants need to file for credit on their own behalf in jurisdictions that require it.

### REGISTRATION PROCEDURE

**MAIL: NELI, P. O. Box 1189, Golden, Colorado 80402**  
**PHONE: (303) 861-5600**, 8:00 a.m. - 4:30 p.m. Mountain Time  
**FAX: (303) 861-5665**  
**INTERNET: [www.neli.org](http://www.neli.org)**  
**EMAIL: [registrar@neli.org](mailto:registrar@neli.org)**

### HOTEL ACCOMMODATIONS

For NELI's group rate, reservations must be made directly with the hotel (not through a travel agent). Room blocks are limited and group rates cannot be guaranteed after the listed cut-off dates, and may be fully booked even before then. Reserve early and state that you are attending NELI's *ADA & FMLA Compliance Update* to qualify. If you experience difficulty, please call NELI. After the cut-off date, reservations at the group rate are on a space available basis.

**San Francisco - Westin St. Francis**  
335 Powell Street, San Francisco, CA 94102  
(415) 397-7000  
Traditional - \$269.00; Deluxe - \$299.00 (plus tax)  
**Reservation cut-off date: March 11, 2015**

**Chicago - Four Seasons Hotel**  
120 East Delaware Place, Chicago, IL 60611  
(312) 280-8800  
Deluxe King - \$305.00 (plus tax)  
**Reservation cut-off date: March 25, 2015**

**Washington, DC - Ritz-Carlton Pentagon City**  
1250 South Hayes Street, Arlington, VA 22202  
(703) 415-5000 or (800) 422-2410 - Res Code NYINYIA  
Deluxe Room - \$269.00 (plus tax)  
**Reservation cut-off date: April 8, 2015**

- Lower rates may be available on hotel websites •

## 2015 AGENDA

### DAY ONE

#### 7:45 Program Check-In & Continental Breakfast

#### 8:30 Trends in the Law: The ADA After 25 Years

- Trends in disability law 25 years after passage of the ADA and six years after the effective date of the ADA Amendments Act (ADAAA)

*Panelists*

#### 9:00 Updates on the Definition of “Disability”

- Discussion of the latest agency developments and the surprising case law under the ADA Amendments Act concerning the definition of “disability,” including practical training tips for supervisors to avoid “regarding” an individual as disabled

- Update on the meaning of “substantially limits,” including seriousness and duration issues

*San Francisco & Washington, DC - Paul Buchanan*

*Chicago - Mark Oberti*

#### 10:15 Refreshment Break

#### 10:30 Whether an Individual is “Qualified”

- Practical considerations and decisions on the meaning of “qualified,” including the latest decisions on “essential functions,” the importance of up-to-date job descriptions, whether handling stress, getting along with co-workers, rotating duties, traveling, and lifting are considered “essential,” and EEOC’s controversial new decisions on whether attendance, shifts, and overtime are “essential”

- Important evidence concerning whether an individual is “qualified,” including inflated performance evaluations, doctors’ notes, and statements in another forum

*All Locations - David Fram*

#### 12:00 Luncheon (Hosted by NELI)

#### 1:00 Practical “Reasonable Accommodation” Issues

- Latest developments on the changing definition of “reasonable” (including whether cost/benefit and “futility” are relevant), as well as cases on what sparks the accommodation interactive process, what employers should do in response to employee requests, and how supervisors and human resource personnel should document the process

- Discussion of the latest cases on leave (including repeated leave extensions), schedule adjustments, changing supervisors, parking, reassignment, work-at-home, shift changes, and irritant-free workplace requests

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

*San Francisco - Paul Buchanan, David Fram*

*Chicago - Mark Oberti, David Fram*

*Washington, DC - Paul Buchanan, David Fram*

#### 3:45 Enforcing Conduct Rules

- Analysis of particular conduct rules, such as policies on drugs, alcohol, violence, safety, co-worker courtesy, and tardiness

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

*San Francisco & Washington, DC - Paul Buchanan*

*Chicago - Mark Oberti*

#### 4:30 GINA Issues

- Discussion of current issues under the Genetic Information Nondiscrimination Act, including the latest GINA cases

- Practical guidance for changes in workplace practices to comply with GINA

*San Francisco - Jeanne Goldberg*

*Chicago & Washington, DC - Sharon Rennert*

#### 5:00 Adjourn

**Questions:** Time has been set aside to answer questions throughout the program. Due to time constraints, only written questions will be taken.

### DAY TWO

#### 7:30 Continental Breakfast

#### 8:00 Requesting Medical Information Under the ADA

- Recent cases concerning the ADA’s restrictions on medical questions and exams, and discussion of EEOC’s formal and informal policies on questions and exams of employees

- Emerging developments concerning voluntary wellness programs under GINA and the ADA, fitness-for-duty exams, permissible questions when an applicant or employee requests reasonable accommodation, and confidentiality issues, including whether the ADA’s confidentiality restrictions apply to voluntarily-disclosed information, whether employers should post notices of employee injuries/illnesses, and whether e-mail can be used to notify co-workers of an employee’s medical condition

*All Locations - David Fram*

#### 8:45 Update on Complex FMLA Issues

- Practical guidance on FMLA issues in light of recent court decisions, including important coverage and eligibility issues, the DOL’s proposed regulation changing the definition of “spouse” in light of the Supreme Court’s decision in *Windsor* and recommended policy changes, whether employers must send FMLA notices so that receipt is verifiable, how far employers can go in requiring employees to provide notice of intermittent absences according to specific employer procedures, whether employee notice via texting is sufficient, whether an employer can still designate FMLA-qualifying leave if the employee refuses, practical guidance on what qualifies as leave to care for a family member, as well as updates on eligible adult children, pitfalls of allowing an employee to work on leave, fraudulent use of leave and the honest belief defense, the meaning of “equivalent position,” the risks of eliminating the job of an employee on FMLA leave, how to avoid employer conduct that defeats summary judgment and recent trends in DOL investigations

- Discussion of best practices in managing the medical certification process, including how to handle an employee who states that the return to work date is “unknown,” the duty to return an employee to work when the employer disagrees with the doctor’s fitness for duty certification, how to effectively utilize recertifications when there is suspected intermittent leave abuse, and whether and how an employer can require a medical exam upon return to work from an FMLA leave

- **There will be a 15 minute break at 10:15 a.m.**

*San Francisco - Martha Gates, Dan Grinfas*

*Chicago - Ellen McLaughlin, Jeff Nowak*

*Washington, DC - Megan Norris, Darrell VanDeusen*

#### 12:00 ADA/FMLA Case Study

- Interactive session analyzing a factual scenario likely to arise in the workplace, including practical strategies for managing the employee on medical leave

*San Francisco - Gates, Grinfas, Fram*

*Chicago - McLaughlin, Nowak, Fram*

*Washington, DC - Norris, VanDeusen, Fram*

#### 1:15 Adjourn

#### EEOC Participation:

**At the conclusion of each segment on Day One, EEOC Faculty will review the latest EEOC regulations, cases, positions, and practical guidance for employers.**

*San Francisco - Jeanne Goldberg*

*Chicago & Washington, DC - Sharon Rennert*

NATIONAL EMPLOYMENT LAW INSTITUTE

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