



LEGAL RESEARCH GUIDE SERIES

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Reassignment Under the ADA: Must an Employer Hire a Minimally Qualified Employee Over a More Qualified, Non-Disabled Applicant?

By Amy R. Stein

The **Americans with Disabilities Act** was put into place in order to address the major areas of discrimination faced daily by people with disabilities. Congress found that historically society had tended to isolate and discriminate against people with disabilities, and therefore, passed the ADA with the purpose of eliminating such discrimination.

Under the ADA, employers are prohibited from discrimination against a disabled employee in any personnel decisions and must provide reasonable accommodations to disabled employees. "Reasonable accommodations" include job restructuring, modified work schedules, reassignment to a vacant position and appropriate adjustment or modifications of examinations.

There does exist, however, some disagreement among scholars and courts over the meaning of one particular accommodation: reassignment to a vacant position. Does this require an employer to reassign a qualified disabled employee to a vacant position even if other equally or more qualified disabled candidates exist? Or does it require only that employees, disabled or otherwise, be eligible to apply and be considered for a vacant position?

Amy Stein has prepared this guide to lead researchers through the process of determining the state of law today and to examine different judicial approaches to this unsettled debate. This guide provides the user with citations to and summaries of the leading primary and secondary materials to research this topic thoroughly. Stein appropriately describes the importance of each research step and explores in-depth how courts have interpreted the language in the ADA regarding reasonable accommodation and reassignment.

Enhance your holdings today with this informative guide!

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Item # 66682; ISBN: 978-0-8377-1720-3

Published: Buffalo; William S. Hein & Co., Inc.; 2009

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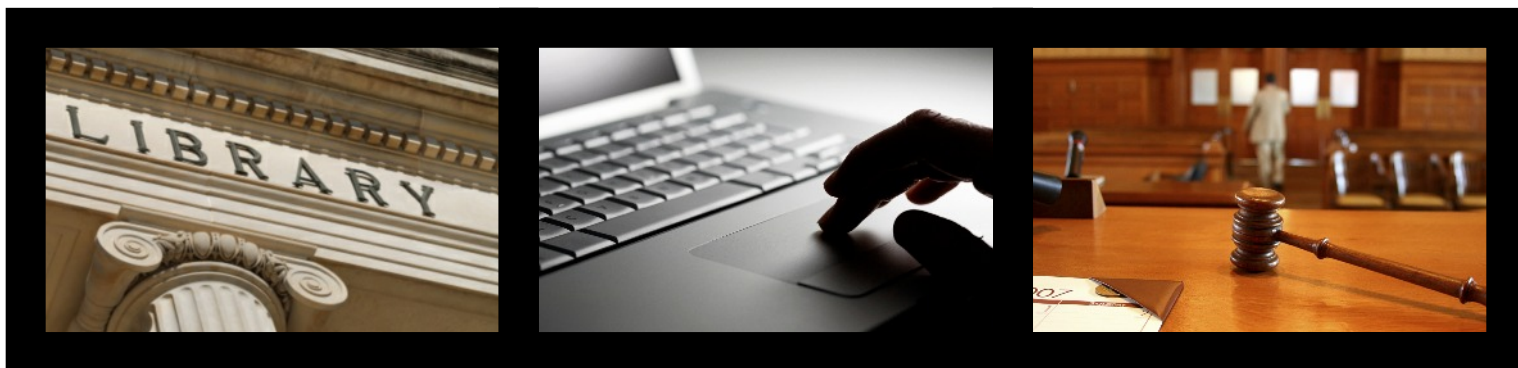
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