

# INDEX

[REFERENCES ARE TO SECTIONS IN THIS BOOK]

---

## **Access Rights**

Under National Labor Relations Act, 1.2.4

## **Actions**

Against Commonwealth when Commonwealth is indispensable party, 8.22

Discrimination. See Discrimination

ERISA breach of fiduciary duties, 8.1.1.11

## **ADA**

Generally. See Americans with Disabilities Act (ADA)

## **ADEA**

Disparate impact, 3.10.2

Federal sector provision, 3.15.11

McDonnell Douglas analysis, 3.7.7.3

SSDI preclusion of claim, 3.7.7.6

Waiting period under EEOC, 3.5.3

**Administrative Remedies Discrimination.** See Discrimination

Federal claims, 1.4

Political activities of public employees, 5.2.8

## **Affirmative Action**

Plans, 3.16.3.4

## **Age Discrimination**

Generally, 3.1.7

Arbitration under collective bargaining agreement, 3.1.7.3

Burden of proof, 3.7.7.1

Constructive discharge, 6.1

Disparate impact, 3.10.3

Jury charges, 3.9

Summary judgment, 3.8.1.6

## **Agreements**

Generally. See Contracts and Agreements

## **AIDS**

And unemployment compensation, 8.10.2.9

## **Alcohol Use**

And discrimination, 3.11.2

## **Americans with Disabilities Act (ADA)**

Generally, 3.19

Damages, 3.19.4

Definition of disability, 3.19.3

Drug use, 3.19.3.2

Employer, considered disabled by, 3.19.3.5

Mistake as to disability, 3.19.3.1

Pennsylvania Human Relations Act and, 3.19.5

Reactions and perceptions, 3.19.3.4

Reasonable accommodation, 3.19.6

Rehabilitation Act and, 3.19.7

Requirements, 3.19.2

Scope of, 3.19.2

Statute of limitations, Chapter 10

Substantially limited in a major life activity, 3.19.3.3

Transsexualism as disability, 3.19.8

## **Annual Leave**

And unemployment compensation, 8.10.5.1

## **Antitrust**

Labor agreements, 8.6.2

Sherman Act, 8.6.1

## **Appeals**

Civil service, 5.6

Of attorneys' fees, 3.14.10.9

Title VII summary judgment, 3.8.1.3

## **Arbitration**

Generally, 8.15

Federal Arbitration Act (FAA), 8.15

National Labor Relations Act, 1.2.1.1

Pennsylvania Labor Relations Act. See Pennsylvania Labor Relations Act (PLRA)

Pension benefits of public employees awards, 5.9.1

**Assignments**

Of covenants not to compete, 8.7.11

**Attorneys**

Non-attorney representation of parties, 8.23

Right to consult and hire, 2.5.3

**Attorneys' Fees**

Civil service actions, 5.6.6

Discrimination, 3.15.1

Lodestar, 3.14.10.4

Marketplace billing rate, 3.14.10.3

Wage Payment and Collection Law, 4.11

**At-will Employment**

Generally, 4.5

Due process rights of public employees. See Due Process Rights of Public Employees

In federal court, 4.5.5

In Pennsylvania, 4.5.2

Municipal employees, 5.1.2.1

Presumption of, overcoming, 4.5.10

Public employers, 4.5.9

Public policy and, 4.5.4

Scope of, 4.5.6

Specifically contracted for, 4.4.1.4

**Bailments**

Negligence, 4.7

**Blacklists**

Discrimination, 3.14.4

**Bona Fide Occupational Qualifications**

Generally, 3.12

**Burden of Proof**

Defamation, 7.2

Discrimination. See Discrimination

ERISA, 8.1.6

Fair Labor Standards Act, 8.12

Reverse discrimination, 3.16.3

Sexual harassment, 5.2.17

Title VII, 3.8.1.3

Workers' compensation upon termination, 9.12.1

### **Bylaws**

And implied contracts of employment, 4.4.6

### **Carry-over Leave**

And pension benefits of public employees, 5.9.17

### **Certified Professional Employees**

Generally, 5.3

Bias, showing of, 5.3.2

Disciplinary hearings, 5.3.10

Discipline of certified teacher, 5.3.9

Immorality as basis for termination of teacher, 5.3.8.1

Knowledge, lack of, 5.3.7

Loss of certification versus termination, 5.3.8

Mandamus to enforce school board's compliance with school code, 5.3.6

Medical license revocation, 5.3.11

School districts, 5.3.1

School employment contracts, 5.3.5

Seniority, 5.3.3

Substantial decrease in student enrollment, 5.3.4

Superintendent of school removal, 5.3.12

### **Child Labor**

Generally, 4.8

### **Child Protective Services Law (CPSL)**

Generally, 8.4.4.

### **Choice of Law**

In workers' compensation, 9.18

### **Civil Service**

Generally, 1.7

Appeals, 5.6.2

Attorneys' fees, 5.6.6

Back pay offsets, 5.6.7

Benefit termination, 5.6.5

Collective bargaining agreements, 1.8

Discrimination, 5.6.10

Exemptions, 5.1.2.11

Hearings, 5.6.9

Just cause removal, 5.6.4  
Police dismissals, 5.6.3  
Regular status, attainment, 5.6.1  
Scope of review, 5.6.8  
Sick leave, 5.6.11  
Successor body, binding, 5.6.12

### **Class Actions**

Discrimination, 3.3.3.2

### **COBRA**

Generally, 8.1.9

### **“Code Words”**

Hostile environments, 3.2.4.3

### **Collective Bargaining Agreements**

Generally, 1.1  
Arbitration of ADEA Claim, 3.1.7.3  
Civil service, 1.7  
Drug testing for federal claims, 1.6  
Exhaustion of administrative remedies for federal claims, 1.4  
Federal preemption, 1.8  
Individual cause of action for federal claims, 1.5  
“Meet and discuss” committees, 1.11  
National Labor Relations Act. See National Labor Relations Act  
Pennsylvania Labor Relations Act. See Pennsylvania Labor Relations Act (PLRA)  
Railway Labor Act, 1.9  
Unfair labor practices. See Unfair Labor Practices

### **Commissions**

Failure to pay, 4.3.2  
Specific intent to harm an employee, 4.3.8

### **Common-law Spouse Widow**

And pension benefits of public employees, 5.9.30

### **Compensatory Damages**

For discrimination, 3.14.3

### **Complaints**

Examples, Chapter 10

**Confrontation**

Right to, 5.11.33

**Consent Judgments**

Generally, 3.8.1.6

**Conspiracies**

To fire, 4.3.8.2

**Constitutional Protections**

1981 protections. See 1981 Protections

1983 protections. See 1983 Protections

Generally, Chapter 2

Class-of-one claim, 2.9.1

Eleventh Amendment protections, 3.1.5

Equal protection, 2.9

False statements, 2.3

Fifth Amendment protections, 2.5, 2.8

First Amendment rights. See First Amendment Rights

Homosexuality as termination for cause, 2.1

Petition clause of U.S. Constitution, 5.5

Prison employee layoffs, 2.4

Psychiatric examinations, 2.2

Right to engage in a particular occupation, 2.12

Right to work, 2.11

Statute of limitations, Chapter 10

Veterans' Preference Act, 8.9

**Constructive Discharge**

Age discrimination, 6.2

Defined, 6.1

Jury questions, 3.8.2.4

Knowledge of other staff, 6.4

Pattern of discriminatory treatment, 6.3

Sexual harassment, 3.21.1.3

Strikes, 6.5

Work stoppages, 6.5

**Contracts and Agreements**

Collective bargaining agreements. See Collective Bargaining Agreements

Interference with contractual relationships, 8.2

Noncompete agreements, 4.3.7

Of employment implied. See Implied Contracts of Employment

“Yellow-dog” contracts, 8.19

**Controlled Substances**

Discrimination, 3.10.3

For federal claims, 1.6

Unemployment compensation, 8.10.2.10

Use of and ADA, 3.19.3

**Controlled Substance Testing**

For federal claims, 1.6

Unemployment compensation, 8.10.2.10

**Covenants Not to Compete**

Generally, 4.3.7

**Criminal History**

Generally, 8.4

**Damages**

ADA, 3.19.4

Child labor, 4.8

Defamation, 7.1

Discrimination, 3.14.1

ERISA breach of fiduciary duties, 8.1.1.9

Family and Medical Leave Act, 8.5.1

Political activities of public employees, 5.2.9

**Declaratory Judgments**

Generally, 8.24

**Defamation**

Absolute privilege, 7.4

Audience, nature of, 7.9

Burden of proof, 7.1

Conditional/qualified privilege, 7.6

Damages, 7.8

Defined, 7.3

Discovery, 7.10

“Literal sense,” 7.7

Sovereign immunity, 7.12

Statute of limitations, Chapter 10

Termination as, 7.5

Workers’ compensation and, 7.11

**Defenses**

Ellerth/Faragher, 3.21.1.2

## **Depositions**

To rebut poor work performance, 3.8.2.5

## **Disability Benefits**

Of public employees, 5.9.27

## **Discovery**

In defamation, 7.10

## **Discrimination**

Generally, 3.1

Actions, 3.5

Administrative filings

generally, 3.3

age discrimination, 3.3.1

class actions, 3.3.3.2

continuing violations, 3.3.3.1

reconsideration, 3.5.1

Rehabilitation Act, 3.3.2

statute of limitations, 3.4

Administrative filings not required, 3.6

After-acquired knowledge of wrongdoing, 3.14.5

Age. See Age Discrimination

Alcohol use, 3.11.2

Americans with Disabilities Act. See Americans with Disabilities Act (ADA)

Attorneys' fees, 3.14.10

Blacklists, 3.14.4

Bona fide occupational qualifications, 3.12

Burden of proof

generally, 3.7

age discrimination, 3.7.7

classes of disparate treatment, 3.7.3

direct proof, lack of, 3.7.6

disparate impact, 3.10

jury charges, 3.9

motivating factor, 3.7.2

nondiscriminatory motives, 3.7.9

Civil service, 5.6.10

Classes of disparate treatment, 3.7.3

Compensatory damages, 3.14.3

Constructive discharge. See Constructive Discharge



- Continuing violations, 3.3.3.1
- Controlled substances, 3.11
- Damages, 3.14
  - attorney's fees, 3.14.10
  - back pay, 3.14.6
  - compensatory damages, 3.14.3
  - delay interest, 3.14.9
  - expert fees, 3.14.9
  - front pay, 3.14.7
  - punitive damages, 3.14.1
- Disparate impact, 3.10
- Drug use and testing, 3.11.1.1
- Early retirement, 3.17.2
- Eleventh Amendment protections, 3.1.5
- Equal Pay Act, 3.1.6
- Expert fees, 3.14.9
- Hostile environments. See Hostile Environments
- Individual liability, 3.13
- Interest, 3.14.9
- Jury charges, 3.9
- Liquidated damages, 3.14.8
- Mitigation of damages, 3.14.11
- National origin, 3.1.3
- Nondiscriminatory motives, 3.7.9
- Political discrimination, 2.5.1
- Post-termination retaliation, 3.15.7
- Pregnancy, 3.1.4
  - abortion, 3.1.4.3
- Pre-judgment interest, 3.14.8
- Pretext case, 3.7.5.1
- Price Waterhouse test, 3.7.5
- Prima facie case, 3.7.5.2
- Privacy, 3.12.2
- Punitive damages, 3.14.1
- Race-based preferences. See Race-based Preferences
- Reconsideration, 3.5.1
- Reduction in force. See Reduction in Force
- Rehabilitated drug addicts, 3.11.3
- Rehabilitation Act, 3.3.2
- Religious, 3.1.2
- Retaliation, 3.15.7
  - Title VII, 3.15.1
- Reverse discrimination
  - burden of persuasion, 3.16.2

- race-based preferences. See Race-based Preferences
- strict scrutiny, 3.16.1
- Security clearances, 3.12.3
- Seniority systems, 3.17
- Sexual harassment, 3.21
- Summary judgment, 3.8
  - Title VII, 3.8.1
- Therapeutic needs, 3.12.1
- Title VII summary judgment, 3.8.1
- Unfair labor practices, 1.10
- Veterans' reemployment rights, 3.20
- Volunteers, 3.1.1
- Whistleblowers, 3.7.8

### **Disparate Impact**

- Burden of proof, 3.10.1
- Discrimination, 3.10
  - ADEA, 3.10.2
- Disparate impact versus disparate treatment, 3.10.3

### **Drug Testing**

- Discrimination, 3.11.1.1

### **Drug Use**

- Discrimination, 3.11.1.1
- For federal claims, 1.6
- Unemployment compensation, 8.10.2.10
- Use of and ADA, 3.19.3.3.

### **Due Process Rights of Public Employees**

- Generally, 5.1
- Allegations, addressing, 5.1.33
- Civil service exemptions, 5.1.2.11
- Confrontation, right to, 5.1.33
- Early removal power of governor, 5.1.2.14
- Exhaustion of procedural protections, 5.1.2.18.1
- Fact finder, 5.1.2.10
- Guaranteed expectation, 5.1.2.5
- Hearings
  - authority delegated, 5.1.2.17
  - pre-termination hearings, 5.1.2.9.1
  - under Heart and Lung Act, 5.1.3.4
- Letter as "adjudication," 5.1.2.19
- Local Agency Law, 5.1.2.3

Medical license suspension, 5.1.3.2  
Municipal employees, 5.1.2.1  
Notice rights, 5.1.2.21  
Per se right to employment, 5.1.2.7  
Personal right, failure to establish, 5.1.2.13  
Physician re-credentialing, 5.1.2.23  
Political questions, 5.1.2.16  
Pre-termination hearings, 5.1.2.9.1  
Professional licenses, 5.1.2.18  
Property interest, 5.1.2.2.1  
Review of pending prior disciplinary actions, 5.1.2.24  
School employees, nonprofessional, 5.1.3.1  
Specific job, right to, 5.1.2.6  
Unreasonable delay, 5.1.2.22

### **Duties Test**

FLSA, 8.12.1.3

### **Duty Under the Law**

Generally, 4.2.5

### **Early Retirement**

Generally, 3.17.2

### **Eleventh Amendment**

Protections, 3.1.5

### **Ellerth/Faragher Defense**

Generally, 3.21.1.2

### **Emotional Distress**

Damages, 8.5.3

### **Employee Handbooks**

Generally, 4.4.4

### **Employment at Will**

Generally. See At-will Employment

### **Employment for Life**

Generally, 4.4.3

### **Equal Pay Act**

Generally, 3.1.6

**Equal Protection**

Generally, 2.9

**Equitable Estoppel**

Against Commonwealth, 5.16

ERISA breach of fiduciary duties, 8.1.6.4

Implied contracts of employment, 4.4.4.6

**ERISA**

COBRA, 8.1.9

Early retirement, 8.1.8

Fiduciary obligations, 8.1.1.7.1

Preemption, 8.1.2

Reimbursement provisions, 8.1.10

Retaliation, 8.1.4

Standards of review, 8.1.6

Statute of limitations, Chapter 10

Subrogation, 8.1.3

Top Hat Plans, 8.1.7

Waiver of rights/release, 8.1.5

**Essence Test**

PLRA, 1.3.14

**Ethics**

For public employees, 5.8

**Evidence**

Burden of proof. See Burden of Proof

Presumptions

    arbitration under PLRA, 1.3.12

    ERISA, 8.1.4.1

**Executive Marketing Incentive Program**

Generally, 5.9.7

Exhaustion of Administrative Remedies for federal claims, 1.4

**Experts**

Fees, 3.14.9

**Extraordinary Damages**

Generally, 4.8.1

**Fair Labor Standards Act (FLSA)**

Generally, 8.12

**Fair Share Fees**

Generally, 1.3.2

**False Statements**

And constitutional protections, 2.3

**Family and Medical Leave Act (FMLA)**

Generally, 8.5

**Federal Preemption**

Generally, 1.8

ERISA, 8.1.2

Wage Payment and Collection Law, 4.11

**Federal Railway Labor Act**

Generally, 1.9

**Fiduciaries**

ERISA, 8.1

**Fifth Amendment**

Protections, 2.9, 5.2.14

**Fire Personnel**

Act 111 collective bargaining, 1.3.9.1

Bargaining unit size under PLRA, 1.3.3

Civil service. See Civil Service

Pension benefits of public employees. See Pension Benefits of Public Employees

**First Amendment Rights**

Generally, 2.5 et seq.

Retaliatory discrimination, 3.15.7

Statute of limitations, Chapter 10

Unemployment compensation, 8.10.2.11

Untruthful speech, 2.5.4

**Flags**

On uniforms, 5.2.5

**Fraud**

Generally, 4.6

### **Freedom of Speech**

Generally. See First Amendment Rights

### **Functus Officio**

Generally, 1.2.14

### **Governmental Immunity**

Generally. See Sovereign Immunity

### **Handbooks**

Employee, 4.4.4

### **Health Care Quality Improvement Act**

Generally, 8.14

### **Health Services Plan Corporations Act**

Generally, 4.9

### **Heart and Lung Act**

Generally, 4.13

### **Homosexuality**

Same-sex harassment, 3.2.1

Termination for cause, 2.1

### **Hostile Environments**

Generally, 3.2 et seq.

Unemployment compensation and, 8.10.8.5

### **Illegal Substances**

Generally. See Controlled Substances

### **Immorality**

As basis for termination of teacher, 5.3.8.1

### **Immunities**

Generally. See Privileges and Immunities

### **Implied Contracts of Employment**

Generally, 4.4 et seq.

### **Indemnification**

Of public employees, 5.10

### **Independent Contractors**

Minimum Wage Act (Pennsylvania), 4.12

Pennsylvania Human Relations Act, 3.19.5.5

Pension benefits of public employees, 5.9

### **Injunctions**

ERISA breach of fiduciary duties, 8.1.1.15

National Labor Relations Act, 1.2.17

Pennsylvania Labor Anti-Injunction Act, 8.17

### **Interest**

In discrimination actions, 3.14.8

### **Interference with Contractual Relationships**

Generally, 8.2

### **Invasion of Privacy**

Generally. See Privacy

### **Jurisdiction**

And preemption, 1.8

### **Jury Instructions**

Family and Medical Leave Act, 8.5.5

### **Jury Service**

Generally, 4.2.7

### **Jury Trials**

Waivers, 4.3.3

### **Labor Management Relations Act (LMRA)**

Generally, 1.2.19

### **Lay-offs**

Generally, 3.18

Claim requirements, 3.18.5

Enhanced benefits for general release, 3.18.3

Relaxed standard, 3.18.4

“Setting up” employee, 3.18.2

Unemployment compensation, 8.10.9

Worker Adjustment and Retraining Notification Act, 8.8

**Leave Pay**

And pension benefits of public employees, 5.9.11

**Leaves of Absence**

Under NLRA, 1.2.20

**Licenses**

Due process, 5.1.2.18

Medical licenses

    revocation, 5.3.11

    suspension and due process, 5.1.3.2

**Lie Detectors**

Testing, 4.2.2

**Life Employment**

Generally, 4.4.3

**Limitation of Actions**

Generally. See Statute of Limitations

**Liquidated Damages**

For discrimination, 3.14.8

**Lobbying**

Generally, 4.2.8

**Local Agency Law**

Generally, 5.1.2.3

**Local Governments**

Generally, 5.15

**Lockouts**

Generally, 8.10.4.4

**Malicious Prosecution**

In retaliation for protected speech, 2.5.2

**Mandamus**

To enforce school board's compliance with school code, 5.3.6

**Media Interviews**



By public employees, 5.2.9

### **Medical Licenses**

Revocation, 5.3.11

Suspension and due process, 5.3.11.1

### **“Meet and Discuss” Committees**

Generally, 1.11

### **Minimum Wage**

Act (Pennsylvania), 4.12

Public employees, 5.14

### **Misrepresentations**

ERISA, 8.1.1.7.1

Unemployment compensation, 8.10.2.6

Workers’ compensation exceptions, 9.1.1.3

### **Mitigation of Damages**

Generally, 3.14.11

### **Motor Vehicle Insurance**

Unemployment compensation and, 8.10.6

Workers’ compensation exceptions, 9.1.1.3

### **Municipal Employees**

Due process, 5.1.2

National Bank Act (NBA), preemption under, 8.26

### **National Labor Relations Act**

Access, right of, 1.2.4

Arbitration, 1.2.11

    generally, 1.2

    discretion of, 1.2.5

    rules of, 1.2.15

Employee rights, 1.2.3

Employer rights, 1.2.8

Functus officio, 1.2.14

History of, 1.2.1

Injunctions, 1.2.17

Labor Management Relations Act, 1.2.19

Leaves of absence, 1.2.20

Merit of dispute, 1.2.18

Rationale for decisions, 1.2.16  
Review of decisions, 1.2.11.1  
Smoking restrictions, 1.2.7  
Statute of limitations, Chapter 10  
Unions, 1.2.9 et seq.

## **National Origin Discrimination**

Generally, 3.1.3

## **Negligence**

Generally, 4.7  
In dismissal, 4.3.6  
In drug testing, suit for, 1.6.3  
Unemployment compensation, 8.10.2.7

## **1981 Protections**

Generally, 2.6  
Independent contractors, 2.6.1  
Retaliation, 3.15.12

## **1983 Protections**

Generally, 2.7  
“Shocks the conscience” exception to governmental immunity, 2.7.2  
Sovereign immunity waiver, 2.7.1

## **Noncompete Agreements**

Generally, 4.3.7

## **Nonprofit Corporation Bylaws**

And implied contracts of employment, 4.4.6.2

## **Notice**

Age discrimination filings, 3.3.1  
Due process rights, 5.1.2.17  
Worker Adjustment and Retraining Notification Act, 8.8

## **Objections**

To fair share fees, 1.3.2

## **Occupation**

Right to engage in, 2.12

## **Occupational Qualifications**

Bona fide, 3.12

### **Oral Promises and Implied Contracts of Employment**

Consideration, 4.4.7

Made at time of hiring, 4.4.1

### **Past Criminal History**

Generally, 8.4

### **Pennsylvania Civil Service**

Generally. See Civil Service

### **Pennsylvania Human Relations Act (PHRA)**

Generally, 3.19.5

Attorneys' fees, 3.14.10

Independent contractors, 2.6.1

Regulations, Chapter 10

Statute of limitations, Chapter 10

### **Pennsylvania Labor Anti-Injunction Act**

Generally, 8.17

### **Pennsylvania Labor Relations Act (PLRA)**

Generally, 1.3

Act 111 collective bargaining, 1.3.9.1

Ambiguity of collective bargaining agreements, 1.3.18

Arbitration, 1.3.4 et seq.

Bargaining unit, size of, 1.3.3

Binding past practices, 1.3.17

Essence test, 1.3.14

Fair share fees, 1.3.2

Public policy exception to essence test, 1.3.14.1

Purpose of, 1.3.1

Statutory law, collective bargaining agreements  
complying with, 1.3.19

### **Pennsylvania Unfair Labor Practices**

Generally. See Unfair Labor Practices

### **Pension Benefits of Public Employees**

Generally, 5.9

Arbitration awards and, 5.9.1

Back pay and benefits, 5.9.16

Beneficiary nomination, 5.9.25.1

- Benefit selection binding, 5.9.25
- Caps on, laws removing, 5.9.19
- Ceasing to be a full-time employee, 5.9.29
- Cessation of duties date, 5.9.6
- Class membership election, 5.9.21
- Common-law spouse widow, 5.9.30
- Credit
  - nonstate, 5.11.3
  - provided through private corporation, 5.9.24
  - purchases, 5.9.5
- Disability benefits, 5.9.27
- Employer's contributions for uncredited state service, 5.9.23
- Executive Marketing Incentive Program, 5.9.7
- Graduate study credits, 5.9.5
- Independent contractors, 5.9.2
- Leave pay, withholding money from, 5.9.10
- Mayor, authority of, 5.9.8
- Modification of, 5.9.31
- Non-work-related disability of police officers, 5.9.12
- Pregnancy, 5.9.4
- Reclassification of membership, 5.9.22
- Reductions, challenges to, 5.9.18
- Second class county detectives, 5.9.9
- Temporary employees' eligibility, 5.9.26
- Third class city police pensions, 5.9.11
- Unemployment compensation offsets, 8.10.5
- Unilateral altering of police officer benefits, 5.9.13
- Workers' compensation
  - awards and, 5.9.1
  - offsets, 9.16
  - substantial loss in, 9.20

## **Personnel Files Act**

Records, 8.13

## **Petition Clause**

Of U.S. Constitution, 5.5

## **Picketing**

Generally, 8.16

## **Police**

- Act 111 collective bargaining, 1.3.9.1
- Bargaining unit size under PLRA, 1.3.3

Chain of command policy, 5.13.4  
Civil service. See Civil Service  
Disciplinary action standard of review, 5.13.3  
Dismissal, 5.13.2  
Disqualifying criminal offenses, 5.13.1  
Pension benefits of public employees. See Pension Benefits of Public Employees

### **Political Activities of Public Employees**

Generally, 5.2  
Administrative remedies, 5.2.8  
Advisors, exceptions for, 5.2.2  
Appearing in civil actions, 5.2.16  
County executive liability, 5.2.9  
First Amendment protections, 5.2.13  
Flags on uniforms, 5.2.5  
Government as employers, 5.2.3  
Government predictions of harm, 5.2.14  
Intraparty conflicts, 5.2.1  
Lack of political support, 5.2.15  
Media interviews, 5.2.12  
Performing task employed to perform, 5.2.6  
Punitive damages, 5.2.7  
Right to remain silent, 5.2.11  
Sexual harassment, 5.2.17  
Union employees, 5.2.10

### **Political Discrimination**

Generally, 2.5.1

### **Political Lobbying**

Generally, 4.2.8

### **Polygraphs**

Testing, 4.2.2

### **Preemption**

Generally, 1.8  
ERISA, 8.1.2  
Wage Payment and Collection Law, 4.11

### **Pregnancy**

Discrimination, 3.1.4

Pension benefits of public employees, 5.9.4

### **Pre-judgment Interest**

In discrimination actions, 3.14.8

### **Presumptions**

Arbitration under PLRA, 1.3.12

ERISA, 8.1.5

### **Prevailing Wage Act (PWA)**

ERISA breach of fiduciary duties, 8.1.1.16.1

Public employees, 5.13.3

### **Price Waterhouse Test**

Discrimination, 3.7.5

### **Privacy**

Generally, 8.2

Discrimination, 3.12.1

Public employees, 5.8

Substantial and highly offensive, 4.2.6

Unemployment compensation, 8.10.2.20

### **Privileges and Immunities**

Defamation, 7.12

Public employees, 5.12

Sovereign immunity. See Sovereign Immunity

Union representation, 1.2.9

### **Productivity Quotas**

Generally, 4.3.4.2

### **Products Liability**

Workers' compensation exceptions, 9.1.1.7

### **Professional Licenses**

Due process, 5.1.2.18

Medical licenses

    revocation, 5.3.11

    suspension and due process, 5.1.3.2

### **Property Interests**

In employment, 5.1.2.2.1

**Prudent Person Rule**

In ERISA, 8.1.1.4

**Psychiatric Examinations**

And constitutional protections, 2.2

**Psychic Injury**

Generally, 9.10

**Public Employees**

Certified professional employees. See Certified Professional Employees

Civil service. See Civil Service

Due process rights. See Due Process Rights of Public Employees

Equitable estoppel, 5.16

Ethics, 5.8

Indemnification, 5.10

Local government, 5.15

Minimum wage, 5.14

Pension benefits. See Pension Benefits of Public Employees

Petition clause of U.S. Constitution, 5.5

Police. See Police

Political activities of. See Political Activities of Public Employees

Prevailing Wage Act, 5.14

Privacy, 5.7

Residency requirements, 5.4

Service credits, non-state, 5.11

**Punitive Damages**

Discrimination, 3.14.1

Family and Medical Leave Act, 8.5.1

**Race-based Preferences**

Generally, 3.16.3

**Railway Labor Act**

Generally, 1.9

**Reasonable Accommodation**

Generally, 3.19.6

**Records**

Personnel Files Act, 8.13

**Reduction in Force**

Generally, 3.18

Unemployment compensation, 8.10.9

Worker Adjustment and Retraining Notification Act, 8.8

### **Rehabilitated Drug Addicts**

Discrimination, 3.11.3

### **Rehabilitation Act**

Generally, 3.3.2

### **Release**

Under ERISA, 8.1.5

### **Religious Discrimination**

Generally, 3.1.2

### **Remedies**

Administrative remedies

discrimination. See Discrimination

Damages. See Damages

Union representation, right to, 1.2.9

### **Reputation**

Wrongful discharge, 4.3.6

### **Residency Requirements**

For public employees, 5.4

### **Respondeat Superior**

And sexual harassment, 3.21.1

### **Retaliation**

Discrimination. See Discrimination

ERISA, 8.1.4

Petition clause of U.S. Constitution, 5.5

Workers' compensation upon termination, 9.12.1

### **Reverse Discrimination**

Burden of persuasion, 3.16

Race-based preferences. See Race-based Preferences

### **RICO**

Standing, 8.11



**Right to Engage in a Particular Occupation**

Generally, 2.12

**Right to Remain Silent**

Fifth Amendment protections, 2.8

**Right to Work**

Generally, 2.11

**Salary Test**

FLSA, 8.12.2.3

**Same-sex Harassment**

Generally, 3.2.1

**Schools**

Certified professional employees. See Certified Professional Employees

Hostile environments, 3.2.4.1

Nonprofessional and due process, 5.1.3.1

Pension benefits of public employees. See Pension Benefits of Public Employees

Unemployment compensation. See Unemployment Compensation

**Second-Hand Smoke**

Generally, 3.19.6.4

**Security Clearances**

Discrimination, 3.12.3

**Seniority Systems**

Generally, 3.17

**Sexual Harassment**

Generally, 3.21

Political activities of public employees, 5.2.17

Same-sex harassment, 3.2.1

Unemployment compensation, 8.10.8.1

Workers' compensation, 9.8.1

**Sherman Act**

Antitrust, 8.6

**“Shocks the Conscience” Exception**

To governmental immunity, 2.7.2

**Shop Fee Arbitration**

Under PLRA, 1.3.13

**Sick Leave**

Civil service, 5.6.11

FLSA and, 8.12.2.8

Unemployment compensation, 8.10.5.1

**Smoke/Smoking**

Restrictions, 1.2.74

Second-hand, 3.19.6.4

**Social Security**

Bar of PHRA claim, 4.10.1

Preclusion of ADEA claim, 3.7.7.6

**Sovereign Immunity**

Commonwealth is indispensable party, 8.22

Criminal history, 8.4

Defamation, 7.11

Family and Medical Leave Act, 8.5.1

“Shocks the conscience” exception, 2.7.2

Vietnam Era Veterans’ Readjustment Assistance Act, 3.20.3

Waiver, 2.7.1

**Specific Intent to Harm an Employee**

Generally, 4.3.8

**Speech, Freedom of**

Generally. See First Amendment Rights

**Standing**

ERISA breach of fiduciary duties, 8.1.1.17

RICO, 8.11

**State Employees**

Generally. See Public Employees

**Statute of Limitations**

Generally, Chapter 10

Administrative filings, 3.4

mixed motives under Title VII, 3.7.1

Age discrimination, 3.1.7

ERISA breach of fiduciary duties, 8.1.1.13  
Family and Medical Leave Act, 8.5.1  
RICO, 8.11.2  
Statutes fixing time for an adjudicating body, 8.25  
Whistleblower protections, 8.3.3  
Worker Adjustment and Retraining Notification Act, 8.8

### **Statutory Employer Rule**

Generally, 9.11

### **Strikes**

Generally, 6.5  
Pennsylvania Labor Anti-Injunction Act, 8.17

### **Subrogation**

ERISA, 8.1.3  
Workers' compensation, 9.13.1

### **Successor Liability**

Administrative filings, 3.4.5

### **Summary Judgment**

Discrimination actions. See Discrimination

### **Teachers**

Certified professional employees. See Certified Professional Employees  
Hostile environments, 3.2.4.1  
Nonprofessional and due process, 5.1.3  
Pension benefits of public employees. See Pension Benefits of Public Employees  
Unemployment compensation. See Unemployment Compensation

### **Temporary Employees**

Workers' compensation, 9.15

### **Temporary Restraining Orders**

Unemployment compensation, 8.10.2.7

### **Temporary Work Outside U.S.**

Generally, 1.10.4

### **Theft**

Accusations, 4.3.1

**Therapeutic Needs**

Discrimination, 3.12.1

**Top Hat Plans**

Generally, 8.1.7

**Toxic Substances**

Generally, 8.20

**Transfer of Entities Act**

Generally, 5.3.10.1

**Transsexualism**

As disability, 3.19.8

**Unemployment Compensation**

Generally, 4.2.4

Annual leave, 8.10.5.1

Benefit computation, 8.10.5

Burden of proof, 8.10.12

Early retirement, 8.10.8.6

Employer/employee relationship, 8.10.1

Federal tort claims and, 8.10.7

Federal unemployment, 8.10.7

Hostile work environment, 8.10.8.5

Labor disputes and, 8.10.4

Misconduct, non-work related, 8.10.9

Necessitous and compelling reason to quit, 8.10.8

Pension offsets, 8.10.5.3

Scope of review, 8.10.10

Sexual harassment, 8.10.8.1

Sick leave, 8.10.5.1

Vacation time, 8.10.5.5.

Voluntarily quitting, 8.10.8.2

Waiver of issues, 8.10.11

Willful misconduct, 8.10.2

**Unfair Labor Practices**

Generally, 1.10

Discrimination based upon union activity, 1.10.2

**Uniformed Services Employment and Reemployment Rights Act  
(USERRA)**

Generally, 3.20.5

**Unions**

Antitrust, 8.6.2

By ordinance, 1.2.9

Discrimination based upon union activity, 1.10.2

Retaliatory discrimination, 3.15.7

Transfer of union jobs, 1.10.3

Unemployment compensation due to labor disputes, 8.10.4

“Yellow-dog” contracts, 8.19

**U.S. Flags**

On uniforms, 5.2.5

**Vacation Time**

And unemployment compensation, 8.10.5.5

**Veterans**

Reemployment rights, 3.20

**Veterans’ Preference Act (VPA)**

Generally, 3.20.4

**Vicarious Admissions**

By employee against employer, 8.21

**Vietnam Era Veterans’ Readjustment Assistance Act (VEVRA)**

Generally, 3.20.3

**Volunteers**

Discrimination, 3.1.1

**Wage Payment and Collection Law (WPCL)**

Generally, 4.11

**Waiver**

ERISA, 8.1.4.1

Jury trial waivers, 4.3.3

Unemployment compensation, 8.10.10

Workers’ compensation, 9.19

**Whistleblowers**

Protections, 3.7.8

**Work, Right to**

Generally, 2.12

### **Worker Adjustment and Retraining Notification Act (WARN)**

Generally, 8.8

### **Workers' Compensation**

Generally, 4.2.1

Choice of law, 9.18

Course and scope of employment, 9.6

Disclaimer, 9.21

Double dip, 9.5

Earning power, loss of, 9.14

Exceptions to, 9.1.1

Exclusivity of, 9.1

Hospital as employer, 9.7

Issue preclusion, 9.8

Malicious and fraudulent conduct, 9.4.1

Pension benefits and offsets, 9.16

Procedure, 9.19

Psychic injury, 9.10

Same employ, 9.3

Scope of review, 9.17

Sexual harassment, 9.8.1

Standard of review, 9.17

Statutory employers, 9.11

Subrogation, 9.15

Temporary employees, 9.13

Waiver of issues, 9.19

Work-relatedness, 9.2

### **Work Stoppages**

Generally, 6.5

### **Wrongful Discharge**

Generally, 4.3

### **“Yellow-Dog” Contracts**

Generally, 8.19