

NOVEMBER 2013

Trainings & Events
(Central Standard Time)

ADA Audio Conference Series

Implementing Olmstead: The Status of Enforcement Efforts

November 19, 2013 1-2:30 CST.

In 2009, the U.S. Department of Justice, Civil Rights Division launched an aggressive effort to enforce the Supreme Court's decision in *Olmstead v. L.C.*, a ruling that requires states to eliminate unnecessary segregation of persons with disabilities and to ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs. The Civil Rights Division has responded by working with state and local governments officials, disability rights groups and attorneys around the country, and with representatives of the Department of Health and Human Services, to fashion an effective, nationwide program to enforce the integration mandate of the Department's regulation implementing title II of the ADA. Join this session as we hear more about these efforts including how the integration versus segregation mandate has been applied to employment.

Presenters

[Anne Raish](#) - Disability Rights Section, U.S. Department of Justice

For more information visit [ADA Audio Conference Series](#) at <http://www.ada-audio.org> (877) 232-1990

Accessible Technology Webinar Series

Advanced Accessible PDF - Part 2: Tables, Forms, and More!

November 21, 2013 1-2:30 CST.

Sometimes additional editing is needed to get your PDF fully accessible. This session will look at the Table and Form Editors, changing reading order for assistive devices, and new features in Acrobat XI. Participants should have a basic understanding of accessible PDF principles such as tagging and navigational structure.

Speakers:

[Christy Blew](#) - University of Illinois at Urbana-Champaign

VOLUME 10 ISSUE 2

News from the Federal Agencies

U.S. Access Board

Board Issues Final Guidelines for Federal Outdoor Recreation Sit

This year's National Boy Scout Jamboree at Bechtel Summit in West Virginia featured a day of service project to improve accessibility at the nearby New River Gorge National River. Boy scouts teamed up with National Park Service personnel to make a trail, picnic and camping areas, parking, and a fishing bridge accessible for people with disabilities.

<Read More at= <http://www.access-board.gov/news/1495-boy-scouts-improve-accessibility-at-national-river-area>>

U.S. Equal Employment Opportunity Commission (EEOC)

Georgia Power Company Sued by EEOC for Disability Discrimination

An electric utility company headquartered in Atlanta unlawfully discriminated against a class of employees and applicants because of their disabilities, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. According to the EEOC's suit, Georgia Power Company violated federal law by not allowing employees to return to work after receiving treatment for their conditions and being cleared by their treating physicians.

<Read More at=<http://www.eeoc.gov/eeoc/newsroom/release/9-30-13i.cfm>>

EEOC Sues Abatti Group for Disability, Genetic Information Discrimination

The Abatti Group and its subsidiaries, a provider of seed and fertilizer, violated federal law by engaging in discrimination based on both disability and genetic information, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. The EEOC contends that the Abatti Group and its subsidiaries All Star Seed, Green Touch Fertilizer and Eight Star Commodities required job applicants to undergo illegal physical exams and questions about their medical conditions.

<Read More at= <http://www.eeoc.gov/eeoc/newsroom/release/9-30-13d.cfm>>

EEOC Sues Upper Chesapeake Health System for Disability Discrimination and Retaliation

Upper Chesapeake Health System, a leading health care provider in northeastern Maryland, committed unlawful disability discrimination and retaliation against an employee, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. The EEOC charged that the health system failed to provide a reasonable accommodation, fired, and later refused to rehire a pulmonary function

For more information visit [ADA Audio Conference site](#)

AccessibilityOnline Webinar Series

Section 508 Refresh - Using WCAG 2.0 to Evaluate Document Accessibility

December 5th, 2013 1:30-3:00 CST.

In 2010, the Board's Advance Notice of Proposed Rulemaking (ANPRM) for Section 508 proposed to incorporate the Web Content Accessibility Guidelines (also known as WCAG 2.0) for evaluating the accessibility of electronic documents. WCAG 2.0 is published and maintained by the World Wide Web Consortium (W3C) and is the internationally recognized standards for web accessibility. This session will provide examples of how the WCAG success criteria can be used to catch accessibility barriers in office documents, and also how the word processor has the capacity to include accessibility features in documents.

Presenters:

[Bruce Bailey](#) - Accessibility Specialist, Information Technology Specialist, US Access Board

[Jutta Treviranus](#) - Director, Inclusive Design Research Center-OCAD University

For more information visit [AccessibilityOnline](#)

AccessibilityOnline Webinar Series

Accessible Alterations

January 9th, 2014 1:30-3:00 CST.

Provisions in both the 2010 ADA Standard and the ABA Accessibility Standard apply to buildings and facilities when an "alteration" is undertaken. The session will provide an overview for applying the technical and scoping provisions when altering and more specifically address "alterations affecting primary function areas" and other special scoping and technical provisions applicable when altering.

Presenters:

[Jim Pecht](#) - Accessibility Specialist/Librarian, US Access Board

[Dave Yanchulis](#) - Coordinator of Public Affairs, Office of Technical and Information Services, US Access Board

For more information visit [AccessibilityOnline](#)

technologist because of her disability and in retaliation for her requesting an accommodation and complaining about discrimination.

<Read More at= <http://www.eeoc.gov/eeoc/newsroom/release/9-27-13b.cfm>>

EEOC Sues Benny Boyd Car Dealership for Disability Discrimination and Harassment

A Lubbock, Texas automobile dealership violated federal disability discrimination law by denying a partnership to a general manager because of his multiple sclerosis, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. The EEOC further alleges that Randall Hurst was subjected to a hostile work environment based on his disability, and forced to quit as a result of the lost pay and harassment.

<Read More at= <http://www.eeoc.gov/eeoc/newsroom/release/9-26-13c.cfm>>

GGNSC Administrative Services to Pay \$75,000 in EEOC Disability Bias Suit

A federal judge in Milwaukee has entered a consent decree resolving a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC) against GGNSC Administrative Services, LLC. According to the EEOC's suit, GGNSC violated federal law by firing an employee of its Milwaukee office after she requested an extension of leave to recover from knee surgery.

<Read More at= <http://www.eeoc.gov/eeoc/newsroom/release/9-25-13f.cfm>>

Camden Place Health & Rehab Pays \$51,000 to Settle EEOC Disability Discrimination Lawsuit

Camden Place Health & Rehab, LLC, a Greensboro health and rehab facility, will pay \$51,000 and furnish other relief to resolve a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). According to the EEOC's lawsuit, Yvonne Quaynor worked for Camden Place as a certified nursing assistant (CNA). Quaynor has asthma, a condition that affects her ability to breathe. The EEOC's complaint alleged that around January 2010, Camden Place began requiring all of its CNAs to supervise residents during scheduled smoking breaks.

<Read More at= <http://www.eeoc.gov/eeoc/newsroom/release/9-25-13e.cfm>>

For more information please call 800-949-4232 (Voice/TTY) or Online via [Contact Us form](#).

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U.S. Federal Communications Commission (FCC)

FCC seeks comment on AT&T Request for Clarification or Waiver of Speech-to-Speech Muting Rules

On November 14, 2013, the FCC's Consumer and Governmental Affairs Bureau issued a Public Notice seeking comment on a petition filed by AT&T. AT&T requested clarification or waiver of the new rule requiring providers to offer speech-to-speech (STS) users the option to have their voices muted during an STS call. AT&T explains that it can offer the voice muting option for incoming calls to an STS user who has not pre-selected muting in his or her caller profile only by asking the STS user to drop off the call and having the communications assistant reconnect the STS user to the call. AT&T asks for clarification that its method of handling incoming calls is acceptable, or in the alternative, for a 12-month waiver to give AT&T time to upgrade its technical platform.

Comments due: **15 days after date of publication in the Federal Register**

Reply Comments due: **25 days after date of publication in the Federal Register**

For more information, please contact Caitlin Vogus, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 418-1264 or Caitlin.Vogus@fcc.gov.

Link to the Public Notice:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-13-2191A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-13-2191A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-13-2191A1.txt

FCC seeks comment on Sprint Request for Reconsideration on New Rules for Internet Protocol Captioned Telephone Service

On November 14, 2013, the FCC's Consumer and Governmental Affairs Bureau issued a Public Notice seeking comment on a petition filed by Sprint Corporation requesting reconsideration of three parts of the new rules that were adopted for Internet Protocol Captioned Telephone Service (IP CTS) in August 2013. Sprint asks that the Commission: (1) reconsider its new rule prohibiting all providers from distributing IP CTS software and applications at no charge or for less than \$75; (2) change its registration and certification requirements to allow access to IP CTS phones in public places; and (3) allow Sprint to use a slightly different language for labels warning consumers that only registered users of IP CTS may use IP CTS equipment and software with captions turned on.

Comments due: **15 days after date of publication in the Federal Register**

Reply Comments due: **25 days after date of publication in the Federal Register**

For further information, contact Gregory Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 559-5158 (voice/videophone) or e-mail at Gregory.Hlibok@fcc.gov.

<Read More at= http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-13-2190A1.doc

U.S. Department of Justice (DOJ)

Justice Department Reaches Agreement with Milford Plaza

The Department of Justice reached a voluntary compliance agreement with RP/HH MILFORD PLAZA LESSEE, LP. The Justice Department conducted a compliance review of the hotel. As part of the agreement the hotel will take steps to remove

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existing architectural barriers. This will include making the main entrance to the hotel accessible and providing the required number of wheelchair accessible rooms and dispersing those rooms throughout the various classes of rooms the hotel has.

<Read More at= <http://www.ada.gov/milford-sa.htm>>

Justice Department Reaches Agreement with Experimental Aircraft Association, Inc.

The Justice Department reached a settlement agreement with the Experimental Aircraft Association, Inc. The agreement resolves a complaint filed under title III with the Justice Department alleging that at its annual air show in Oskosh, WI a participant was prohibited from using a Segway® device. As part of the settlement agreement the Association will develop policies that outline where and when other-power driven mobility devices can be used at the air show in the future.

<Read More at= <http://www.ada.gov/ea-airventure-sa.htm>>

Great Lakes In Focus

The U.S. Department of Transportation (DOT), announced that in its ongoing effort to ensure equal access to air transportation for all travelers, is requiring airline websites and automated airport kiosks to be accessible to passengers with disabilities. In addition, DOT will allow airlines to choose between stowing wheelchairs in a cabin compartment on new aircraft or strapping them to a row of seats, an option that will ensure that two manual, folding wheelchairs can be transported at a time.

The new rules are part of DOT's continuing implementation of the Air Carrier Access Act of 1986. Under the new websites-and-kiosks rule, covered airlines are required within two years to make pages of their websites that contain core travel information and services accessible to persons with disabilities, and to make all of their web pages accessible within three years. Websites are required to meet the standards for accessibility contained in the widely accepted Website Content Accessibility Guidelines (WCAG). The requirement applies to U.S. and foreign airlines with websites marketing air transportation to U.S. consumers for travel within, to or from the United States.

The rule also requires ticket agents to disclose and offer web-based discount fares to customers unable to use their sites due to a disability starting within 180 days after the rule's effective date. Airlines are already required to provide equivalent service for consumers who are unable to use inaccessible websites. Under the new rule, airlines must also offer equivalent service to passengers with disabilities who are unable to use their websites even if the websites meet the WCAG accessibility standards.

In addition, any automated kiosks installed at U.S. airports for services -- such as printing boarding passes and baggage tags -- must be accessible to passengers with disabilities until at least 25 percent of all kiosks at each airport location are accessible. Even if no new kiosks are installed, 25 percent of kiosks at each airport location must be accessible within 10 years. The standards for accessible kiosks are based on those set by the U.S. Department of Justice for ATM and fare machines in its 2010 Americans with Disabilities Act rule as well as the Section 508 standards for self-contained closed products, such as copiers.

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DOT's wheelchair rule provides airlines with more flexibility because it permits airlines to transport passenger wheelchairs by strapping them across a row of seats using a strap kit that complies with applicable safety standards, in addition to stowing them in a closet or similar compartment. In 2008, DOT issued a rule prohibiting airlines from using the seat-strapping method on new aircraft as an alternative to stowing the manual wheelchair in a closet or similar compartment. In that same rule, DOT allowed the use of a seat-strapping method on existing aircraft. Based on a fuller evaluation of the costs and benefits, DOT has now revised its position to also allow the use of seat-strapping on new aircraft subject to certain conditions. For example, if an airline chooses to use the seat-strapping method to stow a wheelchair, it must transport two wheelchairs in the cabin if requested unless stowing the second wheelchair would displace other passengers.

If an airline chooses to use a closet to stow a wheelchair, then it will still be required to stow only one wheelchair in the cabin. However, in this case it must install a sign or placard prominently on the closet indicating that a wheelchair and other assistive devices are to be stowed in this area with priority over other items brought onto the aircraft by other passengers or crew, including crew luggage.

For More Information visit www.regulations.gov, docket DOT-OST-2011-0177. In addition to accepting public comments on the web and kiosk rule through this website, the Department partnered with Cornell University's eRulemaking Initiative (CeRI), Regulation Room, designed to improve the public's ability to understand and participate in the rulemaking process. A goal of the CeRI team is to make Regulation Room as accessible to as many users as possible. This partnership supports President Obama's open-government initiative. The final rule on wheelchairs is available at the same website at docket DOT-OST-2011-0098.

The Docket

<Neely v. PSEG Tex., LP=

http://scholar.google.com/scholar_case?case=8001266928764048893&hl=en&as_sdt=6&as_vis=1&oi=scholarr>

Jeffrey Neely brought suit against his employer alleging discrimination in violation of the Americans with Disabilities Act (ADA). He claimed that his employer failed to accommodate him and then retaliated and discharged him. During the trial there were two jury interrogatories. The interrogatories asked whether Neely was "a qualified individual with a disability." The jury answered no to both questions and to the question regarding retaliation.

On appeal of the jury's verdict, Neely argued that because of the changes made by the ADA Amendments Act (ADAAA), the focus is no longer on whether the employee has a disability but rather on whether acts of discrimination occurred. The Fifth Circuit Court of Appeals denied Neely's argument. The Court ruled that although Congress may have intended to broaden the definition of disability in amending the ADA, this "in no way eliminated the term [disability] from the ADA or the need to prove a disability on a claim of disability discrimination."

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From the ADA Expert [REDACTED]

Q. I am an architect designing a single user toilet room for a retail store. This is new construction. Can the door swing into the toilet room or must it swing out of the room?

A. The door can swing into the toilet room; however there are other considerations when designing this room. A door typically is not permitted to swing into the clear floor space for any fixture in a toilet room. For example, clear floor space for a paper towel dispenser, the lavatory/sink, water closet or any fixture in the room should be clear of the door swing. However, there is an exception that allows the door to swing into the clear floor space for fixtures in a single user toilet room where there is a 30X48 space located outside of the swing of the door.

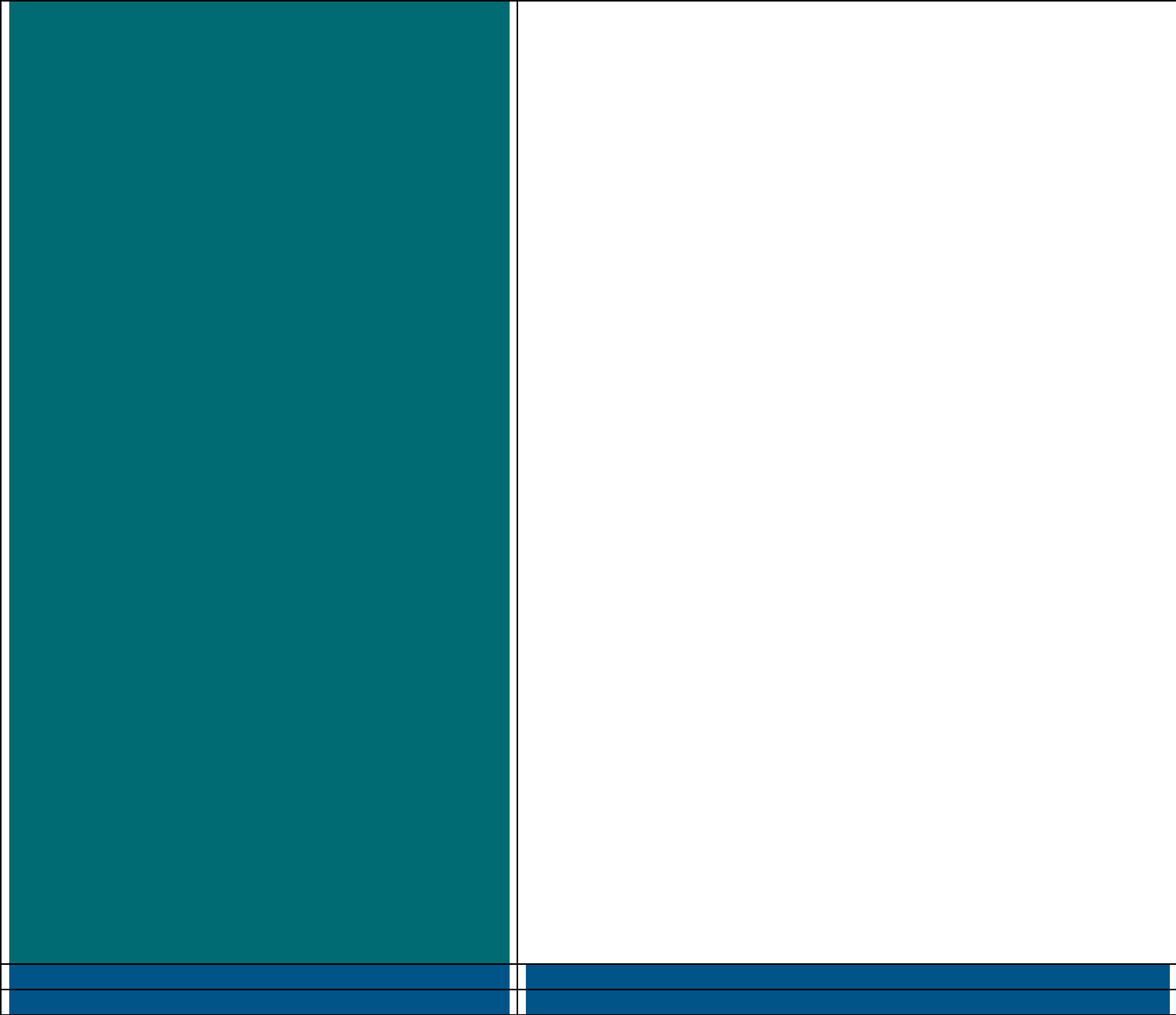
Other requirements in the single toilet room would include a 60 inch turning space and a requirement that all of the fixtures in the room be located along an accessible route. The clear floor space, turning radius and accessible route may overlap. The door can also swing into the turning radius and accessible route. Additionally, clear floor space must be provided for all fixtures in the room, i.e. water closet, paper towel dispenser, sink, etc. The requirements for a toilet room may be found in the 2010 ADA Standards for Accessible Design, 213 and 603.

For additional information on the ADA contact the Great Lakes ADA Center by calling (800) 949-4232 (V/TTY) or by completing the Center's online contact form. <http://www.adagreatlakes.org/WebForms/ContactUs/>

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