AccessibilityOnline Webinar Series
Accessibility Standards - "Building Blocks" - A Refresher
October 2nd, 2014 1:30-3:00 CT.
In this session, we will provide an in-depth review of the criteria for ground and floor surfaces, turning spaces, clear floor and ground spaces, knee and toe clearances, protruding objects, reach ranges, and operable parts. Special attention will be given to how these criteria affect the usability of an element or space using illustrations from the Board's new "Guide to the Standards". Attendees are encouraged to review the previous session on this topic and submit questions in advance for this discussion.

Presenters:
Dave Yanchulis, Coordinator of Public Affairs, Office of Technical and Information Services, US Access Board
Bill R. Botten - Accessibility Specialist, Office of Technical and Information Services, US Access Board
For more information visit AccessibilityOnline or call (877) 232-1990

AccessibilityOnline Webinar Series
Accessible Retail Stores and Spaces - "Advanced Session"
November 6, 2014, 1:30-3:00.
Presenters:
Paul Beatty, Coordinator of Public Affairs, Office of Technical and Information Services, US Access Board
Earlene Sesker - Accessibility Specialist, Office of Technical and Information Services, US Access Board
For more information visit AccessibilityOnline or call (877) 232-1990

News from the Federal Agencies

U.S. Equal Employment Opportunity Commission (EEOC)

EEOC Sues Sushi at the Lake for Disability Discrimination
Greenhouse Enterprise, Inc., dba Sushi at the Lake, which operates a restaurant in Cornelius, N.C., violated federal law when it refused to hire a job applicant because of his disability, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. According to the EEOC complaint, Matthew Botello's left arm was amputated above his elbow around November 2010. On or about Oct. 4, 2013, Botello applied to work as a busboy (or "busser") at Sushi at the Lake, and on Oct. 10, Botello was told to report to the restaurant to work the following day. Shortly after Botello arrived on Oct. 11, the restaurant's owner saw that Botello's left arm had been amputated. The EEOC said that the owner gestured at Botello's left side and told Botello that he could not bus tables because he had only one arm.

Read More about the EEOC Lawsuit against Sushi at the Lake at http://www.eeoc.gov/eeoc/newsroom/release/10-14-14.cfm

EEOC Sues FedEx Ground Package System, Inc., for Nationwide Disability Discrimination
FedEx Ground violated federal law nationwide by discriminating against a large class of deaf and hard-of-hearing package handlers and job applicants for years, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it has filed. The EEOC says that FedEx Ground failed to provide needed accommodations such as American Sign Language (ASL) interpretation and closed-captioned training videos during the mandatory initial tour of the facilities and new-hire orientation for deaf and hard-of-hearing applicants.

Read More about Lawsuit against FedEx Ground at http://www.eeoc.gov/eeoc/newsroom/release/10-10-14.cfm

EEOC Sues The Lash Group for Disability Discrimination
The Lash Group, a Charlotte, N.C.-based consulting company, refused to provide a reasonable accommodation to an employee with post-partum depression and instead fired her because of her disability the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. According to the EEOC lawsuit, Meron Debru worked as a reimbursement case advocate at The Lash Group's Rockville, Md., facility when she went on maternity leave. She received short-term disability benefits while on maternity leave and advised the disability benefits carrier that she needed additional unpaid leave due to post-partum depression, the EEOC said. The Lash Group initially fired her, but later extended her short-term disability leave. When Debru was medically released to return to work, however, The Lash Group did not return her to her position as a reimbursement case advocate because it had filled her position.

Read More about the EEOC Lawsuit against the Lash Group at http://www.eeoc.gov/eeoc/newsroom/release/10-8-14.cfm
Kaiser Permanente to Pay $75,000 to Settle EEOC Disability Discrimination Suit

Kaiser Permanente, the largest managed care organization in the United States, will pay $75,000 and furnish other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). According to the EEOC, a food service worker at Kaiser's San Diego facility has a medical condition, hydrocephalus, which causes difficulties with memory, dizziness and concentration. Upon hire, the worker requested additional training time and the assistance of a temporary job coach to effectively learn the job and perform the required job duties.

Read More about the EEOC Settlement with Kaiser Permanente at http://www.eeoc.gov/eeoc/newsroom/release/10-8-14b.cfm

Suncup / Gregory Packaging Sued by EEOC for Disability Discrimination

Gregory Packaging, Inc., a nationwide manufacturer and distributor of juice products to school districts and medical institutions, violated federal law by firing an employee because of his disability, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it recently filed. EEOC's complaint alleges that Gregory Packaging admitted it terminated the employee because of his impairment.

Read More about the EEOC Lawsuit against Suncup / Gregory Packaging at http://www.eeoc.gov/eeoc/newsroom/release/10-6-14b.cfm

EEOC Lawsuit Challenges Flambeau Over Wellness Program

Flambeau, Inc., a Baraboo, Wis.-based plastics manufacturing company, is alleged to have violated federal law by requiring an employee to submit to medical testing and assessment in connection with a "wellness program" or face consequences. That violated the Americans with Disabilities Act the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed.

Read More about the EEOC Lawsuit against Flambeau at http://www.eeoc.gov/eeoc/newsroom/release/10-1-14b.cfm

U.S. Department of Justice (DOJ)

Justice Department Reaches Agreement with Private Montessori Day School to Prevent Discrimination Against Children with Disabilities

The Justice Department announced that it has reached an agreement with Milwaukee Montessori School, a private day school in Wisconsin serving over 400 children from 18 months old through eighth grade, to remedy alleged violations of the Americans with Disabilities Act (ADA). The agreement resolves allegations by the Department that the school failed to reasonably modify its policies for, and then impermissibly disenrolled, a young child whose disability caused him to stumble and fall more frequently than his peers. The agreement is being filed as a consent decree along with a complaint in the U.S. District Court for the Eastern District of Wisconsin, and must be approved by the court. Under the consent decree, the school will adopt a disability nondiscrimination policy, including procedures for prompt handling of requests to reasonably modify school policies for children with disabilities.
Because the term reasonable accommodation includes accommodations that enable the employee to perform the essential functions of his or her job, various courts have agreed with the EEOC that unpaid medical leave, for a finite period, is a reasonable accommodation if it does not pose an undue hardship. The session will explain the manner in which the EEOC and courts have evaluated extended leaves of absence as well as claims of undue hardship. We will examine issues of overlap when it comes to FMLA and ADA accommodations, discuss recent cases that have emerged and how these might affect upcoming policy/guidance.

During this session we will discuss:

- Differences between someone who is deemed to have a "serious health condition" versus someone who is a "qualified individual with a disability" and how this affects ADA coverage
- How and when medical inquiries can be used to determine coverage under the ADA and FMLA
- Situations where both ADA and FMLA apply
- How FMLA might differ at the federal versus state level
- Differing reinstatement requirements under ADA versus FMLA
- Undue Hardship
- Recent or emerging cases surrounding these issues

Speakers:
- Martin S. "Marty" Ebel, JD, Deputy Director, Equal Employment Opportunity Commission, Houston District Office

For more information please call 800-949-4232 (Voice/TTY) or Online via Contact Us form. Great Lakes ADA Center
University of Illinois at Chicago
Department of Disability and Human Development (MC 728)
1640 West Roosevelt Road, Room 405
Chicago, Illinois 60608-6904
The latest letter makes clear that the protections for students with disabilities who are bullied on any basis extend to the roughly three quarters of a million students who are not eligible for IDEA services but are entitled to services under the broader Section 504 of the Rehabilitation Act of 1973. That law bars discrimination on the basis of disability in all programs or activities that receive federal financial assistance.

Help is available for those who are either targets of disability bullying or know of someone who might be, such as:

- A [fact sheet for parents](http://www.ed.gov/ocr/complaintintro.html) on schools’ obligations under federal law to address bullying. The fact sheet is also available in [Spanish](http://www.ed.gov/ocr/complaintintro.html).
- Visiting the federal Web site, [www.stopbullying.gov](http://www.stopbullying.gov), which provides useful information on bullying prevention and remedies.
- Asking to meet with the student's team that designs his or her individualized education program—the IEP or Section 504 teams.
- Asking to meet with the principal or school district's special education coordinators to have the school address bullying concerns.
- Seeking help from OCR. The office investigates complaints of disability discrimination at schools. To learn more about federal civil rights laws or how to file a complaint, contact OCR at 800-421-3481 (TDD: 800-877-8339), or [ocr@ed.gov](mailto:ocr@ed.gov). OCR’s Web site is [www.ed.gov/ocr](http://www.ed.gov/ocr). To fill out a complaint form online, go to [http://www.ed.gov/ocr/complaintintro.html](http://www.ed.gov/ocr/complaintintro.html).

To view OCR’s guidance detailing public schools' responsibilities regarding the bullying of students with disabilities in Spanish, [click here](http://www.ed.gov/ocr/complaintintro.html).

**Contact:** Press Office, (202) 401-1576, [press@ed.gov](mailto:press@ed.gov)

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**REDBOX AND LIGHTHOUSE FOR THE BLIND: Disability Rights Advocates (DRA) ANNOUNCES SETTLEMENT AGREEMENT**

San Francisco-based Lighthouse for the Blind and Visually-Impaired, Disability Rights Advocates, and the Law Offices of Jay Koslofsky entered into a settlement agreement with Redbox Automated Retail, LLC (“Redbox”) that is expected to significantly improve access for blind individuals to Redbox’s® self-service, touchscreen video-rental kiosks in California. Redbox has agreed to modify all its interactive, touchscreen video-rental kiosks in California by adding nonvisual accessibility features. Redbox offers the nation’s most popular video-rental service for DVDs, Blu-ray® discs, and video games and operates thousands of video rental kiosks in California. Redbox kiosks provide a very affordable and flexible entertainment option to thousands of Californians daily, and the company’s commitment will ensure that blind customers receive the same streamlined access to its services that other customers enjoy.

Key provisions of the settlement include:

- Within 24 months of the court’s approval of the settlement agreement, Redbox will...
Barriers (ABA) by adding provisions and exceptions specific to emergency transportable housing units. The supplemental rule covers access for people who use mobility aids as well as communication access for people with hearing loss.

This session will provide an in-depth review of these new guidelines. A presenter from FEMA has been invited.

Speakers:
- Marsha K. Maz - Director, Office of Technical and Information Services, US Access Board
- For more information visit AccessibilityOnline at http://www.accessibilityonline.org or (877) 232-1990

ADA Audio Conference Series

Accommodating Persons with Environmental Sensitivities: Challenges and Solutions

December 16, 2014 1-2:30 CT.

This webinar will focus on people with chemical, electrical, and/or environmental sensitivities or intolerances. The presenters will address the nature of these disabilities and examine federal recognition and policy development. They will discuss how to accommodate people with environmental illnesses by reducing or eliminating environmental barriers in the public and private sector including housing, employment, healthcare, and in other areas.

Session Objectives:

- Provide background information regarding the nature of environmental sensitivities including how these disabilities impact individual lives.
- Discuss the prevalence of chemical and electrical sensitivities in the general population.
- Review some of the key public policy issues surrounding the rights of people with environmental sensitivities.
- Discuss the nature of chemical, electrical sensitivities and or intolerances.

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- Discuss the nature of chemical, electrical sensitivities and or intolerances.

From the ADA Expert

**Question:** Would an orchestra camp for elementary and middle school youth sponsored by the community orchestra (non-profit) and with the camp space being provided by the public school be responsible under the ADA for providing a sign language interpreter?

**Answer:**

The first question to ask is if and how the ADA applies to this situation. The public school is covered by Title II of the ADA. If the school is only providing space for the camp and if the school is not a partner or co-sponsor then it is not a program of the public school and there are no obligations for the school to provide effective communication.

Next it needs to be determined if the community orchestra is a Title III entity. Title III of the Americans with Disabilities Act applies to entities that serve the general population and have 15 or more employees. If the community orchestra meets this requirement then it would be responsible for ensuring that the camp provides effective communication.

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

Great Lakes ADA Center

University of Illinois at Chicago

Department of Disability and Human Development (MC 728)

1640 West Roosevelt Road, Room 405

Chicago, Illinois 60608-6904
ADA applies to both for profit and non-profit entities as an entities tax status does not determine an entities coverage under the ADA. It would appear that the camp would be covered by Title III.

Title III of the ADA requires that places of public accommodation provide the same level of access to information to individuals with disabilities that are provided to individuals with out disabilities. Title III entities must furnish auxiliary aids and services in order to achieve effective communication unless doing so would result in an undue burden or a fundamental alteration in the goods or services being provided. This is perhaps where an entities tax status may come into play as some non-profits may not have the same resources as for profit businesses. That is not to say that all non-profits don't have the resources to provide a qualified interpreter. A non-profit organization should not only look at the fees charged for the single event but the entire resources it has at its disposal. If the provision of an auxiliary aid or service would result in an undue financial burden the covered entity must look at other means to provide effective communication that would not result in an undue burden.

The ADA does not state that in every instance a sign language interpreter is requested that one must be provided. The bottom line is that a covered entity must provide effective communication with individuals with disabilities. First consideration should be given to the requested auxiliary aid or service however, if effective communication can be achieved through other means then the covered entity would be meeting its obligations under the ADA. In many instances due to the complexity of the information being provided and the duration of the delivery of the oral information a sign language interpreter is likely the only way to achieve effective communication.

For additional information please contact the DBTAC: Great Lakes ADA Center at (800) 949-4232 (V/TTY) or by completing the online Contact Us form.
will also provide an update on the Board’s rulemaking on Medical Diagnostic Equipment. Attendees are encouraged to review the previous session on this topic and submit questions in advance for this discussion.

Speakers:
- Rex Pace, Senior Accessibility Specialist and Technical Assistance Coordinator, US Access Board
- Earlene Sesker, Accessibility Specialist, US Access Board
For more information visit AccessibilityOnline at http://www.accessibilityonline.org or (877) 232-1990

ADA Audio Conference Series
Accessible Construction Management
January 20, 2015 1-2:30 CT
Understanding the implications of integrated accessibility in new construction and alteration projects starts at the very beginning stages of concept and site development. It’s important to involve everyone in all aspects of the design process from the architects and designers to the construction team and most importantly, the end users. This session will discuss these concepts and introduce the Universal Design balance with ADA compliance. A concept of “Experiential Equity” will be discussed in the realm of design and construction processes.
Achieving ideal accessibility requires comprehension and commitment from all involved with an inclusive vision from the project leaders. This session will examine and explore successful techniques to achieve this goal.
Speakers:
- Andrea Haenlin-Mott, Cornell University
For more information visit ADA Audio Conference site at http://www.ada-audio.org or call (877) 232-1990.

AccessibilityOnline Webinar Series
Accessible Play Areas - “Advanced Session”
February 5th, 2015 1:30 -3:00 CT.
It’s been over 2 years since the new
accessibility standards have been required for all newly constructed and altered play areas. This session will focus on a more “advanced” level discussion regarding issues such as the selection of suitable playground surfaces, applying the scoping and technical provisions to altered sites, and other more frequently asked questions. Attendees are encouraged to review the previous session on this topic and submit questions in advance for this discussion.

Speakers:
Bill R. Botten, Accessibility Specialist, Office of Technical and Information Services, US Access Board
Peggy H. Greenwell, Accessibility Specialist, Office of Technical and Information Services, US Access Board

For more information visit AccessibilityOnline or (877) 232-1990