

November 2014

VOLUME 11 ISSUE 2

Trainings & Events

Central Standard Time

AccessibilityOnline Webinar Series

Accessible Retail Stores and Spaces - "Advanced Session"
November 6, 2014, 1:30-3:00 CT.
Presenters:
[Paul Beatty](#), Accessibility Specialist, [U.S. Access Board](#)
[Earlene Sesker](#) -Accessibility Specialist, Office of Technical and Information Services, [U.S. Access Board](#)
For more information visit [AccessibilityOnline](#) or call (877) 232-1990

**ADA Audio Conference Series
ADA Case Law Update**

November 18, 2014 1-2:30 CT
Join us for this popular yearly session and learn what the courts and federal agencies have done to shape the ADA through their decisions and settlements. This session will review key issues that are currently before the courts and analyze the trends. Discussion will include some of the trends in case law at the lower courts which may have an impact on decisions at all levels, including issues that may find their way to the Supreme Court.
Speakers:
[Barry Taylor](#) -Director of Legal Services, Equip for Equality
[Rachel M. Weisberg](#) - Staff Attorney, Equip for Equality
For more information visit [ADA Audio Conference site](#) at <http://www.ada-audio.org/> or call (877) 232-1990.

ADA Legal Webinar Series

The ADA, FMLA/Leave of Absence & The Rehab Act: An Update
November 19, 2014 1-2:30 CT
The Family Medical Leave Act (FMLA) requires covered employers to provide eligible employees with up to 12 weeks of job-protected leave every year for various family

News from the Federal Agencies

U.S. Access Board

Board Releases Guidance on Playground Surfaces - United States Access Board

New guidance on selecting and installing playground surfaces is now available from the Access Board. Developed by the National Center on Accessibility (NCA) at Indiana University with funding from the Access Board, the guide, *Seven Things Every Playground Owner Should Know About the Accessibility of Their Playground Surfaces*, outlines key considerations and steps in selecting, installing, and maintaining playground surfaces to ensure accessibility and compliance with accessibility standards under the Americans with Disabilities Act (ADA)

[Read the Play Ground Surface Guidance at www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/surfacing-the-accessible-playground](http://www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/surfacing-the-accessible-playground)

U.S. Equal Employment Opportunity Commission (EEOC)

Seed and Fertilizer Providers to Pay \$187,500 for Genetic Information and Disability Discrimination

Three Southern California seed and fertilizer providers - All Star Seed, Inc., La Valle Sabbia and Abatti - will pay \$187,500 to settle a discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). The lawsuit had been filed on behalf of a class of job applicants who were subjected to illegal medical and genetic information inquiries.

[Read More about the Settlement at www.eeoc.gov/eeoc/newsroom/release/11-10-14.cfm](http://www.eeoc.gov/eeoc/newsroom/release/11-10-14.cfm)

EEOC and Chicago-Area Marshmallow Maker Reach Accord in Disability Suit

Doumak, Inc., a longtime Chicago-area marshmallow manufacturer, has agreed to change its leave policies to resolve a disability discrimination suit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced. In its complaint, the EEOC alleged that the company had capped the duration of leaves of absence at its Elk Grove Village and Bensenville, Ill., manufacturing facilities, without making appropriate exceptions for people with disabilities.

[Read More about the Settlement at www.eeoc.gov/eeoc/newsroom/release/11-4-14a.cfm](http://www.eeoc.gov/eeoc/newsroom/release/11-4-14a.cfm)

Randall Ford to Pay \$128,750 to Settle EEOC Disability Discrimination Suit

Car dealership Randall Ford in Fort Smith, Ark., will pay \$128,750 as part of the settlement of a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today.

The EEOC's lawsuit challenged Randall Ford's treatment of a used-car manager when the company refused to accommodate his disability following surgery on his spine. Among other things, the manager had asked permission to make greater use of a cart that he and other

and medical reasons. In particular, an eligible employee can take a leave if he/she is unable to work because of a serious health condition. On the other hand, the Americans with Disabilities Act prohibits discrimination against qualified disabled individuals and requires employers to provide accommodations that allow these individuals to perform the essential functions of their jobs. A leave of absence may be a reasonable accommodation if taking the leave would allow the disabled employee to return to work and perform the essential functions of the job. During this session we will discuss employer obligations to provide extended leaves of absence or other accommodations to employees who are on a leave of absence and have a disability protected by the ADA. 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

employees already used from time to time.

[Read More about the Randall Ford Settlement at www.eeoc.gov/eeoc/newsroom/release/11-4-14.cfm](http://www.eeoc.gov/eeoc/newsroom/release/11-4-14.cfm)

Baywood Home Care to Pay \$30,000

A Minneapolis-area home health care provider will pay \$30,000 under a consent decree entered here which resolves a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC lawsuit charged that Baywood Home Care violated the Americans with Disabilities Act (ADA) by failing to provide Laurie Goodnough with a reasonable accommodation, and instead firing her as a home health aide.

[Read More about the Consent Decree with Baywood Home Care at www.eeoc.gov/eeoc/newsroom/release/10-30-14.cfm](http://www.eeoc.gov/eeoc/newsroom/release/10-30-14.cfm)

Jury Finds In Favor Of EEOC

In a verdict in favor of the U.S. Equal Employment Opportunity Commission (EEOC), a jury has found that a licensed security guard with only one arm was unlawfully discriminated against based on his limb loss when his employer, removed him from his post following a customer complaint about his disability. The EEOC lawsuit charged Florida Commercial Security Services with disability discrimination when it removed the employee from his security guard position.

[Read More about Verdict at www.eeoc.gov/eeoc/newsroom/release/10-23-14.cfm](http://www.eeoc.gov/eeoc/newsroom/release/10-23-14.cfm)

Wal-Mart Stores East Will Pay \$72,500 to Settle EEOC Disability Discrimination Lawsuit

Wal-Mart Stores East, L.P., will pay \$72,500 and provide significant equitable relief to settle a federal disability discrimination lawsuit. According to the EEOC lawsuit Wal-Mart failed to reasonably accommodate an applicant for a drug test After the applicant disclosed that she cannot produce urine because she has end-stage renal disease.

[Read More about Wal-Mart Settlement at www.eeoc.gov/eeoc/newsroom/release/10-22-14b.cfm](http://www.eeoc.gov/eeoc/newsroom/release/10-22-14b.cfm)

EEOC Chair Yang Calls for Renewed Effort to Hire People with Disabilities

U.S. Equal Employment Opportunity (EEOC) Chair Jenny Yang spoke at a White House event celebrating "Champions of Change" who are doing extraordinary work to hire, retain, and promote people with disabilities in their local communities and throughout the nation. The event was held in conjunction with National Disability Employment Awareness Month.

[Read More about Chair Yang's Remarks at www.eeoc.gov/eeoc/newsroom/release/10-15-14.cfm](http://www.eeoc.gov/eeoc/newsroom/release/10-15-14.cfm)

U.S. Department of Justice (DOJ)

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

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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
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Accessible Technology Webinar Series

Accessibility anywhere almost, CART and captioning for web based applications

November 20, 2014 1-2:30 CT.

This webinar will cover the entire process of delivering realtime captioning over the internet for a number of applications. With the rapid advancement of technology services can be provided in many locations that were not viable options just a few years ago. If you have a smartphone or an iPad you can now participate from almost anywhere. First we will review real caption applications including stadiums, providing services in the classroom and captioning of web based applications like Google Hangouts. We will also review who is really doing the work of converting speech to text. This includes covering a number of options from text interpreting, voice recognition and stenographers and how their technologies work. By the end of this webinar you should be familiar with the latest options for receiving realtime captions and how the service is provided.

Speakers:

Justice Department Reaches Agreement with Sheraton Atlantic City Convention Center

The Justice Department announced that it has reached a settlement agreement under title III of the Americans with Disabilities Act (ADA) with the Sheraton Atlantic City Convention Center Hotel in Atlantic City, New Jersey. Under the settlement, the hotel agreed to take steps to come into compliance with title III of the ADA, including improving accessibility related to parking areas, bars and dining areas, toilet rooms, designated accessible guest rooms, and the spa at the hotel.

[Read the Settlement Agreement with Sheraton Atlantic City Convention Center at=](http://www.ada.gov/sheraton_ac_sa.htm)
http://www.ada.gov/sheraton_ac_sa.htm

Swedish Edmonds Hospital Reaches Settlement Agreement with Justice Department

The U.S. Department of Justice and Swedish Edmonds Hospital have entered into a settlement agreement to remedy alleged violations of the Americans with Disabilities Act (ADA). The U.S. Attorney's Office for the Western District of Washington began the investigation after a complainant, who is deaf, alleged that during an emergency room visit to the hospital for her 13-year-old son she requested a sign language interpreter, but none was provided.

[Read the Settlement Agreement with Swedish Edmonds Hospital at=](http://www.ada.gov/swedish_edmonds_sa.htm)
http://www.ada.gov/swedish_edmonds_sa.htm

Justice Department Publishes "Solutions for Five Common ADA Access Problems at Polling Places"

The Justice Department published a new technical assistance publication about polling place access for voters with disabilities under the Americans with Disabilities Act (ADA). The publication, "Solutions for Five Common ADA Access Problems at Polling Places," is intended to provide election officials with solutions for addressing common barriers for physical access to polling places for voters with disabilities.

[Read Solutions for Five Common ADA Access Problems at Polling Places at](http://www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.htm)
www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.htm

Great Lakes In Focus

Joint guidance on effective communication for students with disabilities in public schools issued by Justice Department and Department of Education

The U.S. Department of Justice's Civil Rights Division together with the U.S. Department of Education's Office for Civil Rights and Office of Special Education and Rehabilitative Services issued joint guidance about the rights of public elementary and secondary students with hearing, vision or speech disabilities to effective communication.

[Read about "Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools" at](#)

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

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[Nick Wilkie](#) -CEO StreamText.Net Inc
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AccessibilityOnline Webinar Series

Accessible Emergency Transportable Housing

December 4th, 2014 1:30-3:00 CT.
On May 7, 2014, the Access Board has issued guidelines that address access to temporary housing provided by the government in emergencies and natural disasters. The new requirements supplement the Board's accessibility guidelines for facilities covered by the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (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. Mazz](#) -Director, Office of Technical and Information Services, US Access Board

For more information visit [AccessibilityOnline](#) at [http://www.accessibilityonline.orgor\(877\) 232-1990](http://www.accessibilityonline.orgor(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

www.ada.gov/doe_doj_eff_comm/doe_doj_eff_comm_faqs.htm

[Read about "Meeting the Communication Needs of Students with Hearing, Vision, or Speech Disabilities" at www.ada.gov/doe_doj_eff_comm/doe_doj_eff_comm_fact_sht.htm](#)

[Read about "Joint Department of Justice and Department of Education "Dear Colleague" Letter on Electronic Book Readers" at www.ada.gov/doe_doj_eff_comm/doe_doj_eff_comm_ltr.htm](#)

The Docket

Kourimihelakis v. Hartford Fire Ins. Co., 30 AD Cases 1349 (D. Conn. 2014)

A former sales consultant for Hartford Insurance Company filed an Americans with Disabilities Act (ADA) lawsuit against his former employer alleging discrimination on the basis of association. The individual in his law suit argued that Hartford Insurance terminated his employment because he was caring for his father who had suffered a stroke. The employee held an exempt position which was not subject to the employer's tardiness policy. Despite that fact the former employee was written up and subsequently terminated for violating the tardiness policy.

The court found that the employee had stated a plausible claim for associational discrimination under the ADA. The employee alleged that his father was disabled, that he regularly was required to care for his father, that he periodically was unable to report to work on time due to his duties in caring for his father, that the employer was aware of his father's disability and that this was the reason for the employee's tardiness, that the employee made requests to change his work hours but his requests were denied, and that he was terminated because of the known disability of his father. The court found that these allegations supported a reasonable inference that the company's decision to terminate the employee was based on a belief that the employee would have to miss additional time at work in the future in order to take care of his disabled father.

From the ADA Expert

Question: I experienced my second seizure at work in the past week. These were the first seizures I have had in over a year and the first ones that have occurred at work. My employer now wants me to provide documentation from my physician. What information am I required to provide and what information does my employer have the right to receive from me under the ADA? Can my employer share this information with my co-workers?

Answer:

The ADA prohibits covered employers from discriminating on the basis of disability against qualified individuals with disabilities in all employment practices. A covered employer is one with 15 or more full or part-time employees. An employer may hire, fire, or promote the most qualified individual he/she chooses. The ADA prohibits that covered employer from making the decision on whom to hire, fire, or promote on the basis of disability.

An employer in certain instances has the right to request medical information that is job related and consistent with business necessity. If an employee is having difficulty performing

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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.

Highlight the importance of indoor environmental quality to enhanced access for people with these disabilities.

Discuss what policies and practices can improve access for people with chemical and electrical sensitivities.

Understand how to reduce or eliminate environmental barriers to promote accommodations for people with environmental sensitivities.

Review advocacy initiatives that promise to advance medical and disability research, enhance understanding, and promote access for impacted populations.

Speakers:

[Darrell Lynn Jones](#), IL-NET and New Community Opportunities Center Independent Living Research Utilization, Houston, TX

[Mary Lamielle](#), Executive Director National Center for Environmental Health Strategies, Inc.

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the job and the employer based on objective information has a reasonable belief that it is related to a medical condition or disability or that the individual may be a direct threat to the health and safety of himself/herself or others then the employer has the right to receive limited medical information.

The employer has the right to information from an employee indicating that the employee is able to perform the job or essential functions of the position or that the employee is not a direct threat to himself/herself or to others. Direct threat means that there is a significant risk of substantial harm to himself or others. This should not be based on assumptions or perceptions about a medical condition but should be based on current and relevant medical information.

An employer should provide a job description to the employee's physician so the physician understands the job duties associated with the job. The employer does not have the right to a complete medical history and only information related to the medical condition in question.

An employer is prohibited from sharing medical information with co-workers. Any medical information an employer receives should be kept confidential and in a separate file from the employee's regular work file.

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](#)

Resources

[Read about "Questions and Answers about Epilepsy in the Workplace and the Americans with Disabilities Act \(ADA\)" at http://www.eeoc.gov/laws/types/epilepsy.cfm](http://www.eeoc.gov/laws/types/epilepsy.cfm)

[Read about "Enforcement Guidance on Disability-Related Inquiries and Medical Examinations" at http://www.eeoc.gov/policy/docs/guidance-inquiries.html](http://www.eeoc.gov/policy/docs/guidance-inquiries.html)

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AccessibilityOnline Webinar Series

Accessible Hospitals and Medical Care Facilities - "Advanced Session"

January 8th, 2015 1:30 -3:00 CT.
Section 223 of the 2010 ADA Accessibility Standard and the Architectural Barriers Act Accessibility Standard includes scoping provisions for medical care and long term care facilities. Presenters will engage in a more "advanced" level discussion on patient room scoping for both medical and long term care facilities, special technical provisions for parking at specialized facilities, alarm systems and toilet rooms in intensive care units, etc. Presenters 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

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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

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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 play ground 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

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