News from the Federal Agencies

U.S. Equal Employment Opportunity Commission (EEOC)

EEOC Issues Updated Pregnancy Discrimination Guidance


The updates to the Guidance are limited to several pages about the U.S. Supreme Court's recent decision in Young v. UPS, issued in March 2015. The updated Guidance reflects the Supreme Court's conclusion that women may be able to prove unlawful pregnancy discrimination if the employer accommodated some workers but refused to accommodate pregnant women. The Court explained that employer policies that are not intended to discriminate on the basis of pregnancy may still violate the Pregnancy Discrimination Act (PDA) if the policy imposes significant burdens on pregnant employees without a sufficiently strong justification.

The decision in Young does not affect most of the July 2014 EEOC Enforcement Guidance on Pregnancy Discrimination and Related Issues and therefore the following topics remain the same:

- the PDA's application to current, past, and potential pregnancy;
- termination or refusal to hire someone because she is pregnant and other prohibited employment actions based on pregnancy;
- application of the PDA to lactation and breastfeeding;
- prohibition of forced leave policies;
- the obligation to treat women and men the same with respect to parental leave policies; and
- access to health insurance.

The Court's opinion did not address the effect of the ADA Amendments Act of 2008 on workers with pregnancy-related impairments. Therefore that discussion in the Guidance also remains the same. The Guidance notes that, "Changes to the definition of the term 'disability' resulting from enactment of the ADA Amendments Act of 2008 make it much easier for pregnant workers with pregnancy-related impairments to demonstrate that they have disabilities for which they may be entitled to a reasonable accommodation under the ADA."

Read the EEOC Updated Pregnancy Discrimination Guidance

EEOC Sues McLane Foodservice for Disability Discrimination

McLane Foodservice, Inc., which supplies foodservice deliveries to fast-food chain restaurants, violated federal law by discriminating against an employee it believed
to be disabled, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit. According to the EEOC lawsuit, McLane refused to hire an applicant because it regarded him as disabled and because the applicant had a record of a disability.

Read More about the EEOC Lawsuit against McLane Foodservice

Howard University Will Pay $35,000 to Settle EEOC Disability Discrimination Lawsuit

Howard University, a historically black university in the District of Columbia, will pay $35,000 to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC charged that Clarence Muse, who has diabetes that resulted in kidney failure, applied for and was interviewed for a protective services officer and protective services supervisor position with Howard University Hospital, a division of the university. According to the lawsuit, Howard University hired more than 40 security officers and supervisors but refused to hire Muse, despite his excellent qualifications, because of his disability.

Read about the Howard University Settlement with the EEOC

U.S. Department of Justice (DOJ)

Celebrating 25 years of the ADA: Ensuring Access to Jobs and Electronic Court Documents for People with Disabilities

As part of the Justice Department’s celebration of the ADA’s 25th Anniversary, this month’s Justice Blog spotlights recent successes in access to employment and access to the courts. In the employment arena, the Department reached settlements with nine public employers to require them to remove illegal questions asking applicants about their disabilities from their job applications. In addition, several agreements required employers to ensure that their online job application websites are accessible in compliance with WCAG 2.0 AA.

The Blog also spotlights the success brought about by our settlement with the Orange County, Florida Clerk of Courts to ensure that, upon request, the Court provides electronic court documents in a format that is accessible to individuals with disabilities, such as attorney Thomas Ross, who is blind. Almost one year into the settlement agreement, the Clerk of Courts has made significant improvements to its website and has also completed training on the ADA and online accessibility requirements. This will help to ensure that Mr. Ross and other individuals who are blind can access the court documents they need to practice their professions or participate in cases in which they are a party.

Read the Justice Department Blog

Justice Department issues Letter of Findings regarding Augusta County, VA polling place accessibility

On May 13, 2015, the U.S. Department of Justice issued a letter finding that Augusta County, VA is in violation of Title II of the Americans with Disabilities Act
Accessible Technology
Webinar Series
Turning Text Into Speech: Real World Applications and Examples
July 16, 2015
Computers these days have a lot to say but only if you know the right way to ask them. With text-to-speech a user can have the computer read almost any text out loud. This can be a life changing tool for people who are blind, low vision, or have a print related disability. But what are these tools, how do they work, and what does it look like in real life for an everyday user? In this Webinar we will explore text-to-speech tools available on computers, tablets, and smart phones through the use of real world examples. As a trainer of blind and low vision computer users Jonathan has gained a significant amount of hands-on experience of text-to-speech technology and will demonstrate the way his clients find success with text-to-speech tools. You'll also learn how people with print related disabilities like dyslexia can leverage these tools to find success. Demonstrations will include:

- Screen readers like JAWS for Windows and VoiceOver for Apple devices
- Text-to-Speech and magnification software like ZoomText and MAGic
- Built-in reading tools on the iPad and iPhone like Speak Selection and Speak Screen
- Optical Character Recognition (OCR) software like the KNFB Reader and ABBYY FineReader
- Highlight and read tools like NaturalReader and Snap&Read and more

Demos will include both paid and free software options.
Speakers:
Jonathan Campbell
Assistive Technology Specialist Minnesota State Services for the Blind
For more information visit ADA Audio Conference site at

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) by denying voters with disabilities an equal opportunity to participate in the County's voting programs, services, and activities because over 80% of the County's polling places are not physically accessible to persons with mobility disabilities and persons with vision disabilities.

Read the Justice Department Letter of Finding with Augusta County, VA=www.ada.gov Department of Justice files lawsuit against plastic surgeon who refused treatment to patient with HIV

On Wednesday, May 6, 2015, the Department filed a lawsuit against the Springfield Medical Aesthetic (doing business as Advanced Cosmetic Surgery of New York) and Emmanuel O. Asare, M.D., a plastic surgeon practice and surgeon in that practice, alleging discrimination on the basis of disability. Advanced Cosmetic, which has offices in Manhattan and Long Island, and Dr. Asare are alleged to have unlawfully discriminated against a prospective patient on the basis of his disability by refusing to provide services to the patient, without even conducting a medical assessment of his condition, because the patient has HIV.

Read More about the Justice Department Lawsuit against the Springfield Medical Aesthetic

Justice Department publishes new technical assistance document for State and local governments

The Department of Justice has published a new technical assistance document, ADA Update: A Primer for State and Local Governments, to help State and local government officials understand how title II of the ADA applies to their programs, activities, and services. This 16-page illustrated guide addresses general nondiscrimination requirements, such as provisions relating to program accessibility, service animals, communicating with people with disabilities, other power-driven mobility devices, and policies and procedures. The document also addresses how the 2010 ADA Standards for Accessible Design apply to the built environment, including existing buildings and facilities, new construction, and alterations.

Americans with Disabilities Act Title II Primer

Dalton v. CDC, No. 14-13654, 11th Cir., 2015

Lafreta Dalton worked for the Centers for Disease Control (CDC) in a department that advised localities on toxic substances in their area. When she received a poor evaluation criticizing her failure to complete a project on time, Ms. Dalton became physically ill. She called 911 and was taken away in an ambulance.

Her anxiety was so bad that she eventually requested and was approved to go out on Family Medical Leave Act.
When she was ready to return, she underwent a psychiatric examination. Her doctor recommended that she not work under the same supervisor, since doing so might cause her stress and anxiety.

The CDC offered to transfer Ms. Dalton to another position as a reasonable accommodation, but she rejected it. In fact, she never came back to work and the CDC terminated her.

Ms. Dalton sued, alleging failure to accommodate. The court determined that the CDC had offered a reasonable accommodation to address the doctor’s concerns—a transfer. Ms. Dalton never offered an alternative.

**From the ADA Expert**

**Question:** What is the association provision of the Americans with Disabilities Act (ADA) with regards to employment and to whom does it provide protection?

**Answer:**

The ADA covers private employers with 15 or more full or part-time employees and also state and local government employers. The ADA prohibits discrimination on the basis of disability in all employment practices of covered employers. A covered employer may hire, fire or promote the most qualified individual he or she chooses but that employer is prohibited from using disability in that decision making process.

The purpose of the association provision is to prohibit employers from taking adverse actions based on unfounded stereotypes and assumptions about individuals who associate with people who have disabilities. The ADA makes actions such as refusing to hire an individual who has a child with a disability based on an assumption that the applicant will be away from work excessively or be otherwise unreliable, firing an employee who works with people who are HIV-positive or have AIDS based on the assumption that the employee will contract the disease, or denying an employee health care coverage available to others because of the disability of an employee's dependent unlawful.

The association provision of the ADA prohibits employment discrimination against a person, whether or not he or she has a disability, because of his or Her known relationship or association with a person with a known disability. This means that an employer is prohibited from making adverse employment Decisions based on unfounded concerns about the known disability of a family member or anyone else with which the applicant or employee has a relationship or association.

The ADA does not require a family relationship for an individual to be protected by the association provision. The important factor is whether the employer is motivated by the individual's relationship or association with a person who has a disability.

Employers don't have to provide reasonable accommodations to employees who associate with individuals with disabilities. Only qualified applicants and employees with disabilities are entitled to reasonable accommodation.
For example, the ADA would not require an employer to modify its leave policy for an employee who needs time off to care for a child with a disability. However, an employer must avoid treating an employee differently than other employees because of his or her association with a person with a disability.

For additional information please contact the Great Lakes ADA Center at (800) 949-4232 (V/TTY) or by completing the online form: [http://adagreatlakes.com/WebForms/ContactUs/](http://adagreatlakes.com/WebForms/ContactUs/)