

February , 2015

VOLUME 11 ISSUE 4

Trainings & Events

(Central Standard Time)

ADA Audio Conference Series

Reasonable accommodations in the workplace for individuals who are deaf/hard of hearing

February 17, 2015 1-2:30 CT
Twenty five years after the passage of the ADA and people who are deaf or hard of hearing continue to experience a high rate of unemployment and barriers to receiving accommodations in the workplace. Some of the common questions that arise in the workplace regarding job accommodations for someone who is deaf or hard of hearing include "Do I need to pay for a sign language interpreter?" "How does someone who is deaf answer the telephone?" "What is a hearing dog and is that the same as a service animal?" "How can someone who is deaf become a nurse?" Join this session and discussion with nationally recognized leader in the deaf community with experience and expertise addressing the rights of individuals with disabilities to review and discuss accommodations for individuals who are deaf and hard of hearing in the workplace and learn more about what the courts are saying. Speakers:

Howard Rosenblum Chief Executive Officer, National Association of the Deaf

For more information visit [AccessibilityOnline](http://www.ada-audio.org) at <http://www.ada-audio.org> or (877) 232-1990

Accessibility Online Webinar Series

Open Q & A

March 5th, 2015 1:30-3:00 CT
This is a regular session in our webinar, series providing an opportunity to ask questions on any topic related to the Board's activities. Session participants are requested to submit questions in advance on the 2010 ADA Accessibility Standard, the Architectural Barriers Act Accessibility Standard, Medical Diagnostic Equipment or other Board rulemakings or activities. Accessibility specialists will answer questions submitted in advance

News from the Federal Agencies

U.S. Access Board

Board Sponsored Study Examines Impacts of Rough Surfaces on Wheelchair Traffic - United States Access Board

A study funded by the U.S. Access Board was recently completed on how the roughness of pathway surfaces impacts wheelchair travel. This research, which was conducted by the Human Engineering Research Laboratories at the University of Pittsburgh, assessed the impacts of bumpy and uneven surfaces on people who use wheelchairs, including power chairs, by measuring the resulting body vibrations. While there are ways to measure and analyze surface roughness for roadways, none are capable of being directly transferred to pedestrian pathways.

[Read the Report at= http://www.access-board.gov/research/completed-research/surface-roughness-final-report](http://www.access-board.gov/research/completed-research/surface-roughness-final-report)

U.S. Equal Employment Opportunity Commission (EEOC)

EEOC Releases Fiscal Year 2014 Enforcement and Litigation Data

The U.S. Equal Employment Opportunity Commission (EEOC) today released a comprehensive set of fiscal year 2014 private sector data tables providing detailed breakdowns for the 88,778 charges of workplace discrimination the agency received. The fiscal year ran from Oct. 1, 2013, to Sept. 30, 2014.

[Read the Data Tables at= http://www.eeoc.gov/eeoc/statistics/enforcement/index.cfm](http://www.eeoc.gov/eeoc/statistics/enforcement/index.cfm)

Kmart Will Pay \$102,048 to Settle EEOC Disability Discrimination Lawsuit

Kmart will pay \$102,048 and provide significant equitable relief to settle a federal disability discrimination lawsuit, the U.S. Equal Employment Opportunity Commission (EEOC) announced. According to the lawsuit, after Kmart offered Lorenzo Cook a job at its Hyattsville, Md., store, Cook advised the hiring manager that he could not provide a urine sample for the company's mandatory pre-employment drug screening due to his kidney disease and dialysis. Cook requested a reasonable accommodation such as a blood test, hair test, or other drug test that did not require a urine sample. Kmart refused to provide that alternative test and denied Cook employment because of his disability, according to the suit.

[Read More at= http://www.eeoc.gov/eeoc/newsroom/release/1-27-15b.cfm](http://www.eeoc.gov/eeoc/newsroom/release/1-27-15b.cfm)

during the first half of the session, leaving time in the second half to answer questions in the live session.

Speakers:

[Marsha K. Mazz](#) Director, Office of Technical and Information Services, US Access Board

[Rex Pace r](#) Senior Accessibility Specialist and Technical Assistance Coordinator, US Access Board

For more information

visit [AccessibilityOnline](#) at

<http://www.accessibilityonline.org>

or (877) 232-1990

ADA Legal Webinar Series

The Most Important Cases Since the ADA Was Passed 25 Years Ago

July 15, 2015 1-2:30 CT

Since the ADA was passed in 1990, a number of significant cases have been decided by the courts that have shaped how the ADA has been interpreted and implemented.

To commemorate the 25th

Anniversary of the ADA, we will

take a look back at the most

influential ADA cases by first

reviewing the facts and ruling of

these cases, and then discussing

the broader impact these cases

have had. This webinar promises

to cover a wide variety of ADA

issues under Titles I, II and III.

Speakers:

[Barry Taylor](#) Vice President of Civil Rights and Systemic Litigation

[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.

Cleaning Authority of Plainfield to Pay \$15,000 to Resolve EEOC Disability Suit

The Cleaning Authority of Plainfield will pay \$15,000 to a former employee as part of a three-year consent decree resolving a civil rights suit by the U.S. Equal Employment Opportunity Commission,. The EEOC charged that the Plainfield, Ill.-based house cleaning service violated the Americans with Disabilities Act (ADA) when one of the company's officers harassed an employee who walks with an abnormal gait due to a stroke. According to the EEOC complaint, the officer referred to the employee as "a cripple,"

[Read More at= http://www.eeoc.gov/eeoc/newsroom/release/1-27-15a.cfm](http://www.eeoc.gov/eeoc/newsroom/release/1-27-15a.cfm)

KJury in EEOC Suit Says Old Dominion Freight Line Must Pay Former Driver \$119,612 for Disability Bias

A federal jury has found that Old Dominion Freight Line, Inc., a trucking company headquartered in Thomasville, N.C., violated federal disability discrimination law when it denied a reasonable accommodation to a truck driver who self-reported alcohol abuse and then fired him, the U.S. Equal Employment Opportunity Commission (EEOC) announced.

[Read More at= http://www.eeoc.gov/eeoc/newsroom/release/1-16-15.cfm](http://www.eeoc.gov/eeoc/newsroom/release/1-16-15.cfm)

EZEFLOW USA, Inc. Will Pay \$65,000 to Settle EEOC Disability Discrimination Lawsuit

EZEFLOW USA, a pipe fitting manufacturer located in New Castle, Pa., will pay \$65,000 and provide equitable relief to resolve a federal disability discrimination lawsuit, the U.S. Equal Employment Opportunity Commission (EEOC) announced. The EEOC charged that Iraq and Afghanistan U.S. Marine Corps veteran Adam Brant, who worked as a maintenance technician, requested six weeks of unpaid medical leave when he experienced seizures caused by service-related disabilities. EZEFLOW USA denied the request because Brant was still a probationary employee.

[Read More at= http://www.eeoc.gov/eeoc/newsroom/release/1-9-15b.cfm](http://www.eeoc.gov/eeoc/newsroom/release/1-9-15b.cfm)

Non-Profit Social Service Agency to Pay \$309,000 to Settle EEOC Disability Discrimination Lawsuit

Comprehensive Behavioral Health Center (CBHC), a non-profit social service agency in East St. Louis, Illinois, will pay \$309,000 to a former employee and provide other relief to settle an U.S. Equal Employment Opportunity Commission (EEOC) lawsuit, the agency announced. The EEOC charged that CBHC, which provides emotional, rehabilitative and social support services throughout the Illinois cities of East St. Louis, Belleville and Fairview Heights, violated federal law when it refused to provide a reasonable accommodation to employee Pamela Perry and then retaliated against her by refusing to rehire her after she was laid off.

[Read More at= http://www.eeoc.gov/eeoc/newsroom/release/12-31-14a.cfm](http://www.eeoc.gov/eeoc/newsroom/release/12-31-14a.cfm)

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

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U.S. Department of Justice (DOJ)

DOJ Settles Lawsuit Against Days Inn for Denying Vet with Service Animal

The Department of Justice reached an agreement to resolve a lawsuit it brought against Sairam Enterprises, Inc., the owner of the Days Inn Tulsa located in Tulsa, Oklahoma. The proposed consent decree resolves a 2014 lawsuit that the Department filed against Sairam alleging that on July 31, 2010, it violated the Americans with Disabilities Act (ADA) when it denied a room to a veteran and his family because the veteran uses a service dog. Under the terms of the consent decree, Sairam will pay \$5,000 to the family and will provide its employees with training regarding the ADA and the protections it provides to guests with service animals; it will also post signs and other announcements at its hotel stating its willingness to lodge travelers with service animals.

[Read the Consent Decree at= http://www.ada.gov/days_inn_cd.htm](http://www.ada.gov/days_inn_cd.htm)

Justice Department Files Report from Expert Panel Calling for Sweeping Changes to Bring Law School Admission Council's Testing Accommodation Procedures into Compliance with the Americans with Disabilities Act

The Justice Department filed a best practices report from an expert panel convened pursuant to the Consent Decree in Dept. of Fair Employment & Housing (DE FH) v. Law School Admission Council, Inc. (LSAC), Case No. 12-1830-EMC (N. D. Cal). The panel, consisting of experts in cognitive disabilities, the provision of testing accommodations, and compliance with the Americans with Disabilities Act (ADA), was charged with examining ten specific areas of LSAC's testing accommodation practices and establishing, where needed, changes or "best practices" to bring LSAC into compliance with Title III of the ADA. The panel's Best Practices Report requires sweeping changes to LSAC's testing accommodation practices in each of the ten areas examined. For example, the Best Practices Report details the types of documentation that will be sufficient for various types of testing accommodations requests, outlines who should review testing accommodation requests and how the review should be conducted, and creates an appeals process for those candidates whose testing accommodation requests are denied. The timeline for LSAC's implementation of the best practices depends on whether any of the parties challenge them in court.

[Read the Report at= http://www.ada.gov/enforce_current.htm#lsac-notice](http://www.ada.gov/enforce_current.htm#lsac-notice)

Justice Department Announces ADA Title I Settlement Agreements with the cities of DeKalb, Illinois; Vero Beach, Florida; Fallon, Nevada; and Isle of Palms, South Carolina

The Justice Department announced today that it reached settlement agreements under Title I of the Americans with Disabilities Act (ADA) with the cities of DeKalb, Illinois; Vero Beach, Florida; Fallon, Nevada; and Isle of Palms, South Carolina. Under the settlement agreements, each city agrees not to conduct any medical examinations or make disability-related inquiries of job applicants before a

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conditional offer of employment is made, and to make its online employment opportunities website and job applications conform with the Web Content Accessibility Guidelines (WCAG) 2.0, which are industry guidelines for making web content accessible.

Read the Settlements

- [City of DeKalb, Illinois](#)
- [City of Fallon, Nevada](#)
- [City of Isle of Palms, South Carolina](#)
- [City of Vero Beach, Florida](#)

Justice Department Files Statement of Interest regarding Title II Service Animal Regulation

The Department of Justice filed a Statement of Interest in *Alboniga v. School Board of Broward County, Florida*, No. 14-60085 (S. D. Fla.), to clarify that the Department's title II regulation generally requires public entities, such as schools, to permit individuals with disabilities to use their service animals, subject to specific exceptions. This regulatory framework furthers Congress's intent to honor individuals' choices to be accompanied by their service animals where ever feasible and to respect such individuals' autonomy and self-determination.

- [School Board of Broward County, Florida](#)

Justice Department Reaches Settlement Agreement with the National Museum of Crime and Punishment

The Justice Department announced that it has entered into a Settlement Agreement with the National Museum of Crime and Punishment (Crime Museum). The agreement resolves the Department's allegations that the museum is not accessible as required by the Americans with Disabilities Act (ADA) because some of its programs, exhibits, and facilities are not accessible to people with disabilities, including individuals who are blind or have low vision or are deaf or hard of hearing, and individuals who have disabilities affecting manual dexterity. Under the agreement, the Crime Museum will adopt measures to ensure that users with disabilities are able to fully and equally enjoy all of its programs, exhibits, and facilities by taking measures such as providing staff assistance or pre-recorded audio description of program and exhibit information for patrons who are blind or have low vision, providing a printed copy of program information not available in print, for patrons who are deaf or hard of hearing, ensuring that its website conforms to the Level AA Success Criteria and Conformance Requirements of the Web Content Accessibility Guidelines ("WCAG") 2.0 level AA, and removing physical barriers such as protruding objects, inaccessible routes, and restroom barriers.

[Read the Settlement at=](http://www.ada.gov/crime_punishment_museum/crime_punishment_sa.htm)
http://www.ada.gov/crime_punishment_museum/crime_punishment_sa.htm

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Justice Department Settles with Ohio Healthcare System over HIV Discrimination

The Justice Department announced that as part of its Barrier-Free Health Care Initiative, the Department has reached a settlement with Genesis Healthcare System (Genesis) in Ohio to resolve claims that Genesis discriminated against a woman with HIV in violation of the Americans with Disabilities Act (ADA). Following an investigation, the Department found that Genesis discriminated against a woman with HIV when one of its primary care physicians refused to accept her as a new patient because of her HIV, despite the fact that she was only seeking a general practitioner for medical care unrelated to HIV. The Department's investigation revealed that it was this doctor's practice to refer any patients with HIV seeking a primary care physician to an HIV specialist. Under the settlement, Genesis must pay \$25,000.00 to the victim of discrimination, and \$9,000.00 as a civil penalty. In addition, it must train its staff on the ADA, develop and implement a non-discrimination policy, and report to the Department every time a person with HIV (or who is suspected of having HIV) is denied or discharged as a patient, with a written justification for the decision.

[Read the Settlement at= http://www.ada.gov/genesis_healthcare_sa.htm](http://www.ada.gov/genesis_healthcare_sa.htm)

Justice Department Announces Settlement Agreement with Nueces County, Texas

The Justice Department announced a settlement agreement with Nueces County, Texas (County), to improve access to all aspects of civic life for people with disabilities. The agreement was reached under Project Civic Access, the department's wide-ranging initiative to ensure that cities, towns and, counties throughout the country comply with the Americans with Disabilities Act (ADA). Under the agreement, the County will take important steps to improve access for people with disabilities, such as: physically modifying facilities surveyed by the Department so that parking, routes into the buildings, entrances, service areas and counters, restrooms, and drinking fountains are accessible to people with disabilities; posting, publishing and distributing notices to inform members of the public of the provisions of the ADA and their applicability to the City's programs, services and activities. Notably, under the terms of the agreement, the County will ensure that its websites and all online services, including those websites or online services provided by third parties upon which the County relies to provide services or content, comply with, at minimum, the Web Content Accessibility Guidelines (WCAG) version 2.0. The County will also officially recognize the Texas telephone relay service as a key means of communicating with individuals who are deaf, are hard-of-hearing, or have speech impairments and train staff in using the relay service for telephone communications; and, develop a method for providing information for interested persons with disabilities concerning the existence and location of the County's accessible services, activities and programs.

[Read the Settlement at= http://www.ada.gov/nueces_co_tx_pca/nueces_co_tx_sa.html](http://www.ada.gov/nueces_co_tx_pca/nueces_co_tx_sa.html)

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Great Lakes In Focus

EEOC Joins Federal Partners to Produce Resource Guide for Employers

The White House announced a new guide for employers that compiles key federal and federally funded resources related to the employment of people with disabilities. The resource guide, *Recruiting, Hiring, Retaining, and Promoting People with Disabilities*, provides employers with plain language technical assistance tools in an easy-to-use question-and-answer format. The guide was produced by the Curb Cuts to the Middle Class Initiative -- a federal interagency effort working to increase equal employment opportunities and financial independence for people with disabilities.

The goal of the Curb Cuts to the Middle Class Initiative is to coordinate and leverage existing resources across the federal government. The U.S. Equal Employment Opportunity Commission (EEOC) enforces Title I of the Americans with Disabilities Act (ADA), and the Office of EEOC Commissioner Chai R. Feldblum has played a leadership role in the Curb Cuts Initiative.

As Commissioner Chai Feldblum explained, "We have heard time and time again that employers do not want to visit ten government websites to access the information they need. This resource guide is an example of federal agencies coming together to respond to the needs of employers by creating a central repository of user-friendly information and resources. I am proud of the integral role the EEOC played in putting this resource guide together."

"This resource guide underscores the EEOC's commitment to conduct proactive outreach and education to help businesses strengthen efforts to recruit, hire, retain, and promote people with disabilities," said EEOC Chair Jenny R. Yang.

The EEOC is responsible for enforcing federal laws prohibiting employment discrimination. For more information, go to www.eeoc.gov.

[Recruiting, Hiring, Retaining, and Promoting People with Disabilities, Curb Cuts to the Middle Class Initiative](#)

The Docket

KOHL'S DEPARTMENT STORES, INC. - District of Maine

A federal appeals court recently upheld a lower Court's decision against an employee who the appeals Court ruled had failed to satisfy the obligation to participate in the interactive process. The appeals Court ruled the employee failed to cooperate with her employer when searching for a reasonable accommodation for her disability. The case was filed by the U.S. Equal Employment Opportunity Commission (EEOC) alleging that the employee's former employer, Kohl's Department Stores, Inc., had denied the employee an accommodation and discharged her in violation of the Americans with Disabilities

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Act (ADA). The EEOC claimed that Kohl's had given the employee no alternative but to quit when the retailer rejected her request to work a particular modified schedule.

The trial court had found in favor of Kohl's based on the employee's failure to engage in the ADA's required interactive process. The appeals court noted that "The interactive process involves an informal dialogue between the employee and the employer in which the two parties discuss the issues affecting the employee and potential reasonable accommodations that might address those issues. . It requires bilateral cooperation and communication." The court determined that the employer had attempted to participate in that dialogue, but the employee had not.

From the ADA Expert

Question: I am an administrator for a local for-profit hospital. Recently we had a patient in our emergency room whose mother was deaf. The mother requested we provide her with an interpreter so she could communicate with the doctors and nurses. Since the mother is not the patient are we obligated to provide an interpreter for her?

Answer:

Title III of the Americans with Disabilities Act requires covered businesses and organizations to insure that individuals with disabilities have the same level of access to information that individuals without disabilities have. If your hospital communicates with family members or companions without disabilities then you must insure that you communicate effectively with family members and companions with disabilities. The obligation to communicate effectively applies to patients, family members and visitors with disabilities.

This may require the provision of auxiliary aids or services. For communicating with some one that is deaf or hard of hearing that could include Qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals that are deaf or hard of hearing.

This does not mean that every time you need to communicate with some one that is deaf or hard of hearing that an interpreter is needed. However, in situations where the information being provided orally is complex or the information is being provided over a long period of time it is likely an interpreter would be needed. The ADA does not require a covered business or organization to provide any auxiliary aid or services that would result in an undue burden or fundamentally alter the nature of the goods or services being offered. If a particular auxiliary aid or service poses an undue burden then you would need to insure effective communication by providing something that does not pose an undue burden.

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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/)

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