

FEBRUARY 2012

VOLUME 8 ISSUE 4

Trainings & Events
(Central Standard Time)

**Accessibility Online
Webinar Series**

**Accessible Courthouses and
Courtrooms**

February 2nd, 2012 1:30-3:00
CST.

The design of courthouses poses challenges to access due to unique features, such as courtroom areas that are elevated within confined spaces. Technical provisions addressing these issues are included in the 2010 ADA Accessibility Standards and the Architectural Barriers Act (ABA) Accessibility Standards. This session will review requirements in the standards that address access to courthouses and courtrooms, including secured entrances, judges' benches, jury boxes, witness stands, clerks' stations, bailiffs' stations, spectators galleries, holding cells, and other spaces.

For more Information Visit:

[Accessibility Online Webinar Series at
http://www.accessibilityonline.org/
Schedule/](http://www.accessibilityonline.org/Schedule/)

**ADA Audio Conference
Series**

**Planning a trip: What you need
to know about making hotel
reservations**

February 21, 2012 1-2:30 CST.

Did you know that effective March 15, 2012 reservations staff (of a hotel or a third party) will be required to identify accessible features in guest rooms (e.g. guest room door widths and availability of roll-in showers) and other hotel amenities in sufficient detail so that an individual with a disability

News from the Federal Agencies

ADA National Network

ADA National Network Fact Sheets Posted Online

The U.S. Department of Justice recently revised the ADA Title II requirements for State and Local Governments and Title III requirements for Places of Public Accommodation. Although a great number of the regulations took effect March 15, 2011, additional requirements take effect March 15, 2012. The National Network of ADA Centers has created a series of fact sheets to ensure businesses, government entities and individuals understand these changes. PDF versions of each fact sheet are now available on the ADA National Network web site.

For more information [View Fact Sheets](http://adata.org/factsheets/national/en) at <http://adata.org/factsheets/national/en>

U.S. Access Board

Board Holds Hearing on Draft ICT Rule

The Board conducted a public hearing January 11 on a revised draft of updated requirements for information and communication technology (ICT) covered by Section 508 of the Rehabilitation Act and Section 255 of the Telecommunications Act. The next Public Hearing on the Draft ICT Rule is March 1, 2012, 1-3:00 at the 7th Annual CSUN conference, in San Diego, CA. People that wish to provide comments should contact Kathy Johnson at johnson@access-board.gov, (202) 272-0041 (v), or (202) 272-0065 (TTY).

[Read more](http://www.access-board.gov/news/ict-hearing-dc.htm) about Board Holds Hearing on Draft ICT Rule at <http://www.access-board.gov/news/ict-hearing-dc.htm>

U.S. Department of Education (ED)

**Department of Education Issues ADA Amendments Act Dear
Colleague Letter**

The Department of Education's (Department) Office for Civil Rights (OCR) issued a Dear Colleague letter concerning the Americans with Disabilities Act Amendments Act (Amendments Act). The letter and accompanying Frequently Asked Questions document (FAQ) provide additional guidance on the requirements of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504) in elementary and secondary schools.

For more information visit [Read the Dear Colleague letter](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201109.html) at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201109.html>
For more information visit [Read FAQs](http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html) at <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>

can make an independent assessment whether the hotel meets his or her accessibility needs? Join this session and learn what this means for you and what the obligations of the lodging industry are under the revised Title III regulations.

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

Accessibility Online Webinar Series

2010 ADA Standards for Accessible Design

March 1st, 2012 1:30-3:00 CST.

Are you ready? On or after March 15, 2012, the 2010 ADA Standards must be used for all new construction or alterations to facilities covered by the ADA. This session will be an opportunity to better familiarize you with the new standards and the changes from the 1991 standards. Accessibility specialists will focus on more frequently asked questions about the 2010 ADA Accessibility Standards and other areas where guidance is often requested..

For more information visit [Accessibility Online Webinar Series](http://www.accessibilityonline.org/Schedule/) at <http://www.accessibilityonline.org/Schedule/>

ADA Symposium

2012 National ADA Symposium, Orlando, FL

March 12-14, 2012

Caribe Royale All-Suites Hotel & Convention Center

For more information visit [ADA Symposium](http://www.adasymposium.org/In) at <http://www.adasymposium.org/In>

U.S. Equal Employment Opportunity Commission (EEOC)

United Insurance Company of America Pays \$37,500 To Resolve EEOC Disability Discrimination Lawsuit

United Insurance Company of America will pay \$37,500 to resolve a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). The lawsuit stated that Craig Burns is a recovering drug addict who has been enrolled in a methadone treatment program since 2004. United Insurance offered Burns a position as an insurance agent contingent upon Burns' passing a drug test. After Burns' drug test showed the presence of methadone in his system, Burns submitted a letter to United Insurance from his treatment provider explaining that he was participating in supervised methadone treatment program. After receiving this information, United Insurance notified Burns that he was not eligible for hire and withdrew its offer of employment.

[Read more](http://www.eeoc.gov/eeoc/newsroom/release/1-23-12.cfm) about United Insurance Company of America Pays \$37,500 To Resolve EEOC Disability Discrimination Lawsuit at <http://www.eeoc.gov/eeoc/newsroom/release/1-23-12.cfm>

RCC Consultants, Inc. Sued for Disability Discrimination

The U.S. Equal Employment Opportunity Commission (EEOC) has charged that RCC Consultants violated federal disability in a lawsuit the agency has filed. The lawsuit alleges the employer refused to hire an individual at its mid-Atlantic regional office because of his disability.

[Read more](http://www.eeoc.gov/eeoc/newsroom/release/12-29-11.cfm) about RCC Consultants, Inc. Sued for Disability Discrimination at <http://www.eeoc.gov/eeoc/newsroom/release/12-29-11.cfm>

EEOC Sues Midwest ISO for Disability Discrimination

The U.S. Equal Employment Opportunity Commission (EEOC) charges in a lawsuit it filed that Midwest ISO unlawfully discriminated against an employee and fired her because of her disability. According to the EEOC lawsuit the employee suffered from post-partum depression, a condition the employee made known to Midwest ISO. The EEOC state that the employer refused to grant the employee's request for some leave time.

[Read more](http://www.eeoc.gov/eeoc/newsroom/release/12-23-11.cfm) about EEOC Sues Midwest ISO for Disability Discrimination at <http://www.eeoc.gov/eeoc/newsroom/release/12-23-11.cfm>

American Apparel Agrees to Settle EEOC Disability Bias Suit for \$60,000

American Apparel, Inc. will pay \$60,000 and furnish other relief to settle a lawsuit filed by the Equal Employment Opportunity Commission (EEOC). The EEOC

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

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[dianapolisSymposium.html](#)

ADA Audio Conference Series

No pets allowed: Service Animals and Post Secondary Institutions

March 20, 2012 1-2:30 CST

Recent revisions to the regulations implementing Title II and III of the ADA have raised increased focus on the issue of service animals in a variety of settings. Post secondary institutions face unique challenges around these issues when it comes to their policies and procedures regarding service animals in student housing, classroom and public spaces. This session will explore the different scenarios that often play out in post secondary education and discuss the interplay between laws governing non-discrimination in housing versus equal access to programs and services. Join this panel of presenters for a discussion of the issues and engage with them in an interactive question and answer period.

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

ADA Legal Webinar Series

Olmsted Planning: Litigation, Collaboration and the All Important Financial Calculation

March 21, 2012 1-2:30 CST

This webinar session will discuss the essential aspect of budget planning for litigation, policy making and Olmstead planning. It will discuss the pros and cons of litigation versus working with policy makers versus a hybrid

lawsuit charged that the company violated the Americans with Disabilities Act when it fired a garment worker while he was on leave.

[Read more](#) about American Apparel Agrees to Settle EEOC Disability Bias Suit for \$60,000 at <http://www.eeoc.gov/eeoc/newsroom/release/12-19-11.cfm>

Jim Robinson Ford-Lincoln-Mercury to Pay \$56,000 to Settle EEOC Disability Lawsuit

A Wheeling car dealership will pay \$56,000 and furnish injunctive relief to settle a discrimination filed by the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC had charged that in its lawsuit that the dealership refused to accommodate the disability of a salesperson and then fired him.

[Read more](#) about Jim Robinson Ford-Lincoln-Mercury to Pay \$56,000 to Settle EEOC Disability Lawsuit at <http://www.eeoc.gov/eeoc/newsroom/release/12-16-11.cfm>

Wal-Mart to Pay \$275,000 to Former Employee Fired after Cancer Surgery

Wal-Mart Stores Inc. will pay \$275,000 to settle a lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC lawsuit charged that Wal-Mart denied a 12-year employee a reasonable accommodation after he had cancer surgery and then terminated the employee.

[Read more](#) about Wal-Mart to Pay \$275,000 to Former Employee Fired after Cancer Surgery at <http://www.eeoc.gov/eeoc/newsroom/release/12-16-11b.cfm>

Federal Communications Commission (FCC)

Federal Communications Commission Issues New Closed Captioning Rules

The Federal Communications Commission released a Report and Order adopting rules to implement certain closed captioning provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010.

[Read more](#) about Federal Communications Commission Issues New Closed Captioning Rules at http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0130/FCC-12-9A1.pdf

U.S. Department of Justice (DOJ)

Department of Justice Issues Guidance on Requirements for Providing Access to Pools

The US Department of Justice, Disability Rights Section has issued a new technical assistance document titled: Accessible Pools -- Means of Entry and Exit that addresses the 2010 Standards related to this issue. It is available for viewing and

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approach of litigation and working with policy makers to affect change.

For more information visit [ADA Legal Webinar Website](http://www.ada-legal.org/Webinar/ADALegal/Schedule/) at <http://www.ada-audio.org/Webinar/ADALegal/Schedule/> or call (877) 232-1990.

ADA Symposium

2012 National ADA Symposium, Indianapolis, IN

May 30 -June 1, 2012

Hyatt Regency Indianapolis.

For more information visit [ADA Symposium](http://www.adasymposium.org/IndianapolisSymposium.html) at

<http://www.adasymposium.org/IndianapolisSymposium.html>

Accessible Technology Webinar Series

Making Tactile Graphics

February 14th, 2012 1-2:30 CST
Tactile graphics is one area where, in spite of all the changes and advances in the technology used to produce them, very little has been automated or even greatly simplified; yet they offer unique advantages. Clara van Gerven of the National Federation of the Blind will provide insight into the creation of tactile graphics, which graphics are most suitable for conversion into a tactile format and also give us a sneak peek at the state of 3-D printers.

For more information visit

[Accessible Technology Webinar](http://www.ada-audio.org/Webinar/AccessibleTechnology/Schedule/) at <http://www.ada-audio.org/Webinar/AccessibleTechnology/Schedule/> or call (877) 232-1990.

download on the Department's web site.

For more information visit [Accessible Pools -- Means of Entry and Exit \(HTML\)](http://www.ada.gov/pools_2010.htm) at http://www.ada.gov/pools_2010.htm

For more information visit [Accessible Pools -- Means of Entry and Exit \(PDF\)](http://www.ada.gov/pools_2010.pdf) at http://www.ada.gov/pools_2010.pdf

Disability Rights Online News Posted to DOJ Web site

The U.S. Department of Justice has posted Issue forty four of the Disability Rights Online News to its web site. This publication is a bi-monthly update on the Civil Rights Division's activities in the area of enforcing disability rights. The new issue was posted on December 8, 2012.

[Read more](http://www.ada.gov/newsltr0911.htm) about Disability Rights Online News Posted to DOJ Web site at <http://www.ada.gov/newsltr0911.htm>

Enforcing the ADA: A Status Report from the Department of Justice

The Department of Justice has posted to its web site, Enforcing the ADA, A Status Report. The 2 new Status Reports cover activities of the DOJ from October - December 2010 and January-March 2011. The reports include information about DOJ litigation, settlement agreements, mediation efforts and new technical assistance materials.

[Read more on January - March, 2011](#) at [Read more on October - December, 2010](#)

Great Lakes In Focus

The Great Lakes ADA Center will be joining the Great Plains ADA Center to host one of the 2012 ADA Symposium's on the Americans with Disabilities Act and related disability issues. The 2012 Symposium will take place in Indianapolis, Indiana from May 30 to June 1, 2012.

The ADA Symposium includes up to date information regarding employment, communication, transportation, emergency preparedness, case law, regulatory updates for government and private entities and the latest on the 2010 ADA Standards for Accessible Design. In addition, the Indianapolis Symposium will feature a track focused on accessible recreation coordinated by the <http://www.ncaonline.org> National Center on Accessibility.

Hear from presenters representing various federal agencies including the Departments of Justice, Education, Equal Employment Opportunity Commission, U.S. Access Board and FEMA. You can view the Symposium schedule of sessions and activities on-line at <http://www.adasymposium.org/IndianapolisSymposium.html>

In recognition of the fact that the Symposium is taking place in the Great Lakes ADA

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Center's six-state region, we would like to support participation and attendance from across our region. To that end, we are making available a number of stipends in the amount of \$400.00 to cover the cost of registration. Applications will only be accepted from individuals who reside in the Great Lakes Region (IL, IN, MI, MN, OH, and WI). This stipend is only valid for the Indianapolis Symposium. They will be awarded based on need.

Applications will be accepted through March 7, 2012. Notification to recipients will be made by email no later than March 21, 2012 to enable individuals to finalize their plans*.

Applications for the stipends can be completed on-line at <http://www.adagreatlakes.org/> Questions regarding the Symposium and the stipend program should be directed to the Great Lakes Center at 800-949-4232 (V/TTY) between the hours of 8:00am-5:00pm Central Time.

*Hotel Reservations: If you think you may go to the Symposium even if you do not know the outcome of the stipend decision we recommend you make your hotel reservations to ensure that you are able to get the discounted rate of \$91.00 plus tax. You may cancel your reservations without penalty if your plans change. Hotel information can be found on the Symposium Website at: <http://www.adasymposium.org/IndianapolisSymposium.html>

The Docket

Lorrie A. Tiberio v. Allergy Asthma Immunology,

The United States Court of Appeals for the Second Circuit held that a claim under the Americans with Disabilities Act (ADA) must be brought within 90 days after a right-to-sue letter is received either by the plaintiff or by the plaintiff's attorney. After the plaintiff was fired from her nursing position a complaint was filed with the New York State Division of Human Rights and the Equal Employment Opportunity Commission ((EEOC). The EEOC issued a right-to-sue letter. The Plaintiff filed a complaint in the United States District Court for the Western District of New York.

The complaint was filed within 90 days after the plaintiff's attorney had received the right-to-sue letter, but there was a question as to when the plaintiff had received the letter. The court applied two presumptions to determine when the right-to-sue letter had been received. First, the EEOC's right-to-sue letter was mailed on the date shown and second the plaintiff received the letter three days after its mailing. The court concluded that the plaintiff did not file her complaint in District Court within 90 days after receiving the right-to-sue letter.

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From the ADA Expert

Question:Q. I have an employee that is pregnant and is currently unable to work because of some issues with the pregnancy and has exceeded the allowed number of absences. This employee has not worked long enough to qualify for the Family and Medical Leave Act (FMLA.) What are my obligations under the ADA regarding this employee as she has requested leave as an accommodation?

Answer:

The ADA prohibits covered employers from discriminating on the basis of disability in all employment practices. As an employer you would handle this employee's request for a reasonable accommodation as you would handle any other request for an accommodation based on a medical condition. The request from the employee triggers the interactive process and dialogue should occur between you and the employee.

During the interactive process an employer has the right to request documentation of a disability when the need for the accommodation or the disability is not apparent. An employer only has the right to receive documentation relating to the specific medical condition/disability for which the individual has requested the accommodation. The employee is not obligated to provide nor is the employer entitled to receive a complete medical history.

Pregnancy is not an impairment and therefore is not a disability under the ADA.

The definition of disability under the ADA is: A physical or mental impairment that substantially limits one or more major life activities or: A record of such an impairment or: Being regarded as having such an impairment

Additionally, an employee must be qualified to perform the essential job functions to be covered by the law. If an individual is unable to perform the functions of the job with or without a reasonable accommodation then they are not qualified for that job.

There may be underlying medical conditions in addition to the pregnancy that substantially limit a major life activity and therefore would be covered by the ADA. An employer is obligated under the law to accommodate the functional limitations of the covered disability. An employer must provide a reasonable accommodation when it is needed to provide equal access to the application process, to allow a qualified individual to perform the essential functions of the job or to provide equal access to a benefit of the employment.

The requirement to provide the accommodation is limited to the point where it poses an undue hardship for the employer. An undue hardship is something that entails significant difficulty or expense.

If you determine from the documentation from the employee that this employee is

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not substantially limited in a major life activity then there is no responsibility to provide an accommodation under the ADA. The Equal Employment Opportunity Commission (EEOC) enforces the Pregnancy Discrimination Act, which prohibits discrimination on the basis of disability. You may contact the EEOC by calling (800) 669-4000 or by visiting their web site at www.eeoc.gov to get additional information about this federal law.

If the employee has a covered disability then you would look at providing an effective accommodation that doesn't pose an undue hardship. In this situation it would likely be a modification of the absenteeism policy and additional time off.

For additional information contact the Great Lakes ADA Center by calling (800) 949-4232 (V/TTY) or via the [online contact form](#)

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