

APRIL 2012

VOLUME 8 ISSUE 6

Trainings & Events
(Central Standard Time)

News from the Federal Agencies

Accessibility Online Webinar Series

Accessibility Standards: "The Basics"

April 5th, 2012 1:30-3:00 CST.

Whether you follow the 2010 ADA Standard or the Architectural Barriers Act Standard, the application of the "building block" provisions contained in Chapter 3 are critical in designing accessible elements and spaces. These provisions provide criteria for ground and floor surfaces, turning spaces, clear floor and ground spaces, knee and toe clearances, protruding objects, reach ranges, and operable parts. This session will review how to apply these criteria and provide guidance on some common errors in design.

For more information visit

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

Accessible Technology Webinar Series

Improving the Web

Accessibility Game Plan

April 10th, 2012 1-2:30 CST

In the seminar improving the Accessibility Game Plan, Karl Groves will provide an overview of the challenges the accessibility community faces when trying to advance the cause of accessibility outside our own friendly circle.

Additionally, he'll discuss potential solutions to those challenges and ways to get buy-in from others.

For more information visit

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

U.S. Access Board

Access Board intends to form an advisory committee on access to medical diagnostic equipment

The U.S. Access Board is organizing an advisory committee to advance its development of new standards for medical diagnostic equipment. The Board is seeking applications from interested parties to serve as committee members. This committee will provide assistance to the Board in finalizing standards for diagnostic equipment it released for public comment in February

[Read more about Access Board intends to form an advisory committee on access to medical diagnostic equipment](http://www.access-board.gov/news/mde-committee.htm) at <http://www.access-board.gov/news/mde-committee.htm>

U.S. Equal Employment Opportunity Commission (EEOC)

Personal Touch Home Care Of Ohio to Pay \$35,000 to Settle Disability Discrimination Suit

home health care services provider Personal Touch Home Care will pay \$35,000 and furnish other relief to settle a lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). According to the EEOC lawsuit the company fired a female employee because of her disabilities. The employee had worked for Personal Touch since 2000 and had no problems performing her job.

[Read more about Personal Touch Home Care Of Ohio](http://www.eeoc.gov/eeoc/newsroom/release/4-2-12.cfm) at <http://www.eeoc.gov/eeoc/newsroom/release/4-2-12.cfm>

EEOC Sues AT&T for Disability Discrimination

The U.S. Equal Employment Opportunity Commission (EEOC) filed suit against AT&T Corp. for failing to reasonably accommodate an employee and then firing her. According to the EEOC lawsuit the employee requested a reasonable accommodation of a leave of absence in order to receive interferon treatment. AT&T granted her leave request. When her physician determined the treatment was successful and released her to return to work without restriction she was terminated because AT&T claimed she had violated their attendance policy.

[Read more about EEOC Sues AT&T for Disability Discrimination](http://www.eeoc.gov/eeoc/newsroom/release/3-29-12a.cfm) at <http://www.eeoc.gov/eeoc/newsroom/release/3-29-12a.cfm>

Amerced Logistics Sued by EEOC for Disability Discrimination

The U.S. Equal Employment Opportunity Commission (EEOC) has filed a lawsuit against Americold Logistics, LLC. According to the EEOC lawsuit Americold failed

ADA Audio Conference Series

Open Dialogue with the Equal Employment Opportunity Commission

April 17th, 2012 1-2:30 CST
Join us for one of the most popular sessions in the ADA Audio Conference Series. Listen to an update on EEOC Enforcement and Guidance Activities and pose your questions to our speaker. This is an interactive session and you are encouraged to bring your tough issues and concerns forward. Learn from what others may be experiencing and the questions and issues that they may have as well.

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

Accessible Communication Elements and Features

May 3rd, 2012 1:30-3:00 CST.
Standards issued under the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA) address accessibility to a variety of communication elements and features. Requirements address elements such as fire alarm systems, signs, telephones, detectable warnings, assistive listening systems, automatic teller machines, and two-way communication systems. This session will review the scoping and technical provisions for accessible communication elements and features in the ADA and ABA

to accommodate the disability of an employee. The employee has chronic lumbar back pain with radiculopathy into her legs. The EEOC alleges that Americold held the employee to different terms and conditions of employment and then fired her based on her disability

[Read more about Personal Touch Home Care Of Ohio](http://www.eeoc.gov/eeoc/newsroom/release/4-10-12.cfm) at <http://www.eeoc.gov/eeoc/newsroom/release/4-10-12.cfm>

Adams Jeep of Maryland to Pay \$50,000 to Settle EEOC Disability Discrimination Lawsuit

An auto dealership will pay \$50,000 and furnish other remedial relief to settle a disability discrimination and harassment lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). According to the EEOC lawsuit, Adams Jeep of Maryland, Inc., engaged in unlawful discrimination when it denied a reasonable accommodation to an employee shortly after she was diagnosed with bipolar disorder and because of her record of disability.

[Read more about Adams Jeep of Maryland to Pay \\$50,000 to Settle EEOC Disability Discrimination Lawsuit](http://www.eeoc.gov/eeoc/newsroom/release/3-23-12.cfm) at <http://www.eeoc.gov/eeoc/newsroom/release/3-23-12.cfm>

U.S. Department of Justice (DOJ)

Justice Department Announces Settlement Agreement with Shanghai Cottage at Fairhope, Inc

The Justice Department reached an agreement settling a complaint that had been filed under Title III of the Americans with Disabilities Act (ADA) the complaint alleged that a blind individual was refused service at restaurant because he was using a service animal. The agreement requires that the restaurant develop a policy regarding the rights of persons with disabilities to be accompanied by service animal in the restaurant, placing a sign in the window restaurant stating the restaurant welcomes service animals and providing training for all restaurant employees on the requirements of Title III of the ADA.

[Read more about Justice Department Announcement](http://www.ada.gov/shanghai_settle.htm) at http://www.ada.gov/shanghai_settle.htm

Great Lakes In Focus

Extension for Compliance for Existing Pools

On March 15, 2012 the U.S. Department of Justice (DOJ) published a notice extending compliance with the 2010 standards for accessible design for 60 days for existing pools. The Justice Department also on that day published a notice of a 15 day public comment period seeking comment on whether an additional 6 month extension for existing pools should be granted. The DOJ will review the comments

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

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standards and highlight updates to the specifications

Accessibility Online Webinar Series

at
<http://www.accessibilityonline.org/>

ADA Audio Conference Series

Being Prepared: Inclusion of people with disabilities in emergency planning

May 15th, 2012 1-2:30 CST

Twenty percent of Americans have disabilities and may have access and functional needs that will affect their ability to read or understand preparedness information, hear alerts and warnings, utilize accessible transportation during an evacuation, maintain their independence in a shelter, find accessible housing if theirs has been destroyed, access services to enable them to return to work and deal with a myriad of other challenges. Join this session to learn more about the progress that is being made in communities that are committed to emergency planning that is inclusive of the participation and requirements of people with access and functional needs. For more information visit

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

ADA Legal Webinar Series Confidentiality under the ADA and other laws

May 16th, 2012 1-2:30 CST

What rights do people with disabilities have to keep their disability-related information private? And what responsibilities do ADA covered entities have with

submitted and make an announcement as to whether compliance with the 2010 standards on existing pools begins May 15 or if it will be extended an additional 6 months.

The Justice Department indicated it made the decision to extend the compliance date after hearing from the lodging industry that there was a great deal of confusion within the industry as to what the 2010 standards required for accessible entry into existing pools. The public comment is intended to allow DOJ to understand where the confusion is and whether to extended compliance 6 additional months. Compliance with the 2010 standards for all other elements and spaces newly constructed or altered after March 15 is required.

Suggested Resources

- [Compliance Extension for Existing Pools](http://www.ada.gov/regs2010/ADAREgs2012/pools_2012_nprm_final.htm) For more information visit http://www.ada.gov/regs2010/ADAREgs2012/pools_2012_nprm_final.htm
- [Revised ADA Requirements: Accessible Pools Means of Entry and Exit](http://www.ada.gov/pools_2010.htm) For more information visit http://www.ada.gov/pools_2010.htm
- [American Hotel and Lodging Association Letter](http://www.ada.gov/ahla_letter_2_21.htm) For more information visit http://www.ada.gov/ahla_letter_2_21.htm
- [Asian American Hotel Owners Association](http://www.ada.gov/aahoa_letter.htm) For more information visit http://www.ada.gov/aahoa_letter.htm

The Docket

NIXON-TINKELMAN vs NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE

The Second Circuit Court of Appeals revived a claim by a municipal employee who alleged that her employer had failed to provide her with a reasonable accommodation. The employee alleged that her employer had not assisted her with getting to work as a reasonable accommodation. The lower court had dismissed the claim ruling that commuting fell outside the scope of the plaintiff's job. The Court ruled that such an accommodation is outside an employer's obligations under the ADA.

The Second Circuit disagreed with the lower Court, ruling that "there is nothing inherently unreasonable in requiring an employer to furnish an otherwise qualified disabled employee with assistance related to her ability to get to work." The Court ruled that depending on the circumstances, "an employer may have an obligation to assist in an employee's commute."

The case was remanded back to the lower court for a determination as to whether it would have been reasonable for the employer to provide assistance. The Second Circuit provided the district court with additional guidance suggesting that it consider whether defendants could have reasonably accommodated the employee's needs "simply by transferring her back to Queens or another closer location, allowing her to

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respect to confidentiality? This session will explore confidentiality rights and responsibilities under the ADA, its implementing regulations and subsequent case law. The session will also explore other relevant federal laws related to confidentiality including the new Genetic Information Nondiscrimination Act.

For more information visit [ADA Legal Webinar Website site](http://www.ada-legal.org/Webinar/ADALegal/Schedule/) at <http://www.ada-legal.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 at http://www.adasymposium.org/IndianapolisSymposium.html](http://www.adasymposium.org/IndianapolisSymposium.html)

work from home, or providing a car or parking permit." In addition, the lower court was asked to consider factors such as the number of employees employed by the employer, the number and location of its offices, whether other available positions existed for which the plaintiff was qualified, whether she could have been transferred to another office without unduly burdening the employer's operations, and the reasonableness of allowing her to work without on-site supervision.

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

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

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