

Great Lakes Chronicle

ILLINOIS * INDIANA * MICHIGAN
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Welcome to the DBTAC:
Great Lakes ADA Center's
monthly Newsletter

Trainings & Events

ADA Audio Conference Series: "National EEOC ADA Research Project: What does the data tell us about Title I complaints and resolutions?"

The EEOC has entered into a cooperative agreement with researchers at Virginia Commonwealth University to mine the data collected by the EEOC since the implementation of the employment provisions of the ADA. Visit the Audio Conference web site for information about registration.

March 20, 2007

1:00-2:30pm Central Time

www.ada-audio.org

ADA Basic Building Blocks

An introductory web course on the Americans with Disabilities Act of 1990 (ADA) that explores the legal requirements and spirit of the ADA.

www.adabasics.org

In the Headlines

The DBTAC Great Lakes ADA Center has launched a new service on its web site titled, "ADA in the Headlines." The service allows users to view articles from news relating to the Americans with Disabilities Act (ADA). The news articles are updated several times throughout the day providing the latest information on ADA stories and issues. Read more about the ADA in the Headlines at <http://www.adagreatlakes.org/Headlines/>.

The U.S. Department of Justice (DOJ) has posted the latest chapter of, "ADA Best Practices Tool Kit for State and Local Governments," to its web site. The initial chapters of the technical assistance materials were released in December 2006. The materials are designed to assist state and local government's efforts in complying with Title II of the ADA in their programs, activities, services and facilities. The latest release includes:

- Chapter 3, General Effective Communication Requirements Under Title II of the ADA
- Chapter 4, 9-1-1 and Emergency Communications Services

Read more about the Toolkit at <http://www.ada.gov/pcatoolkit/toolkitmain.htm>.

The Equal Employment Opportunity Commission (EEOC) has issued the latest document in its Question and Answer fact sheet series. The document titled, "Questions and Answers about Health Care Workers," addresses the application of the Americans with Disabilities Act to employees in the health care field. This document is the most recent in a series of Q&A documents about specific disabilities in the workplace and specific industries created by the EEOC.

Read More about the EEOC Document at

http://www.eeoc.gov/facts/health_care_workers.html.

The 8th Circuit Court of Appeals reinstated a lawsuit alleging that Wal-Mart Stores violated the Americans with Disabilities Act when it refused to hire a job applicant with cerebral palsy. The case was filed by the Equal Employment Opportunity Commission in January 2004 on behalf of Steven J. Bradley Jr. Wal-Mart was granted summary judgment in August 2005 by U.S. District Judge Gary Fenner because he stated that Bradley was not able to perform the essential functions of the positions of a greeter or a cashier. The Federal Appeals Court disagreed stating that these were issues of fact that a jury should decide. Read more about the Ruling at <http://www.eeoc.gov/press/2-13-07.html>.

The U.S. Department of Justice (DOJ) has entered into a settlement agreement with the City of Minnetonka, MN over a charge filed under Title II of the ADA with the Department. The complaint alleged that the City's Young Explorers program dismissed a participant because of his disability. As part of the settlement the city will create a new policy for the program regarding individuals with disabilities with-in 60 days from the date of the settlement and distribute the new policy to program participants. Read more about the Settlement Agreement at <http://www.ada.gov/oasis.htm>.

The Great Lakes Center offers technical assistance on a variety of issues under the ADA and Accessible Information Technology.

Federal Agencies

The **U.S. Equal Employment Opportunity Commission** (EEOC) is responsible for enforcing Title I's prohibition against discrimination against people with disabilities in employment.
www.eeoc.gov

The **U.S. Department of Justice** (DOJ) is responsible for enforcement of Title II and Title III of the ADA and adopts the Accessibility Standards for enforcement under the ADA. Visit the site to access a copy of the currently enforced accessibility standards under the ADA.
www.ada.gov

The **Office of Civil Rights within the Federal Transit Administration of the U.S. Department of Transportation** ensures full implementation of civil rights and equal opportunity initiatives by all recipients of FTA assistance.
www.fta.dot.gov/17851_ENG_HTML.htm

The U.S. Equal Employment Opportunity Commission (EEOC) reported that job bias filings were up slightly in 2006. Race and Sex Discrimination, and Retaliation were the Most Frequently Filed charges with disability discrimination being the fourth most filed charge. The EEOC reported that this was the first increase in charges since 2002. Read more about the EEOC Report
<http://www.eeoc.gov/press/2-1-07.html>.

U.S. Secretary of Labor Elaine L. Chao has requested nominations for the 2007 "Secretary of Labor's New Freedom Initiative Award." The award honors nonprofits, small businesses, corporations and individuals who have demonstrated exemplary and innovative efforts in advancing the employment and workplace environment of people with disabilities. Read more about the Nominations at
<http://www.dol.gov/opa/media/press/odep/odep20070234.htm#content>.

The U.S. Department of Justice has posted the latest issue of its Disability Rights Online Newsletter to its web site. The document is a bi-monthly update about the DOJ's Civil Rights Division's activities regarding the enforcement of federal disability laws. Read more about the Newsletter at
<http://www.ada.gov/newsltr0107.htm>.

The U.S. Access Board has posted the results of a research study on the visibility of detectable warnings to its web site. The project recommended by the Access Board was funded by the Federal Highway Administration. The study makes recommendations on the color and contrast of the warnings for individuals with visual impairments. The project used subjects to determine which color qualities were most visible to people with limited vision. The Access Board plans to use the results in its rule making for public rights of way. Read more about the Research at
<http://www.access-board.gov/news/dw-research.htm>.

The U.S. Department of Justice (DOJ) has posted to its web site a series of new settlement agreements and new ADA Briefs. New settlement agreements posted include:

- Shoney's LLC
- Becker Paramount Fee LLC
- Paradise Realty Corporation and Da Vinci Hotel Corporation
- Sunstone 42nd Street, LLC
- Twin Cities Avanti Stores, LLC, dba Oasis Markets
- Cohen and Jaffe, LLC

Read more about the Settlement Agreements and ADA Briefs at
<http://www.ada.gov/new.htm>.

The Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education, has announced a Notice of Proposed Priority and Definitions for Special Demonstration Programs and Model Demonstration Projects that improve the postsecondary and employment outcomes of youths with disabilities. Read more about the Notice at
<http://www.ed.gov/legislation/FedRegister/proprule/2007-1/021507a.html>.

For more information please call 800-949-4232 (V/TTY) or online at:

<http://www.adagreatlakes.org/WebForms/ContactUs/>

Great Lakes ADA and Accessible IT Center
University of Illinois at Chicago
Department of Disability and Human Development (MC 728)
1640 West Roosevelt Road, Room 405
Chicago, Illinois 60608-6904

The **Office of Civil Rights within the U.S. Department of Education** ensures equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights. www.ed.gov

The **Federal Communications Commission (FCC)** has rules requiring telecommunications manufacturers and service providers to make their products and services accessible to people with disabilities, if readily achievable. www.fcc.gov

The Great Lakes Center offers customized trainings on a variety of issues under the ADA and Accessible Information Technology.

Great Lakes Affiliates

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Great Lakes In Focus

Title II of the Americans with Disabilities Act (ADA) requires state and local governments to reasonably modify its policies, practices, or procedures to avoid discrimination. If the public entity can demonstrate that the modifications would fundamentally alter the nature of its service, program, or activity, it is not required to make the modification.

Example 1:

A municipal zoning ordinance requires a set-back of 12 feet from the curb in the central business district. In order to install a ramp to the front entrance of a pharmacy, the owner must encroach on the set-back by three feet. Granting a variance in the zoning requirement may be a reasonable modification of town policy.

Example 2:

A county general relief program provides emergency food, shelter, and cash grants to individuals who can demonstrate their eligibility. The application process is extremely lengthy and complex. When many individuals with mental disabilities apply for benefits, they are unable to complete the application process successfully. As a result, they are effectively denied benefits to which they are otherwise entitled. In this case, the county has an obligation to make reasonable modifications to its application process to ensure that otherwise eligible individuals are not denied needed benefits. Modifications to the relief program might include simplifying the application process or providing applicants who have mental disabilities with individualized assistance to complete the process.

The ADA does not require greater or better benefits for individuals with disabilities. What it does require is that an equal opportunity is given to individuals with disabilities and this may sometimes require entities to conduct programs or provide services in a different manner to insure that individuals with disabilities have an equal opportunity.

Accessible Information Technology (AIT)

The DBTAC Great Lakes Accessible Technology Initiative provides individuals, businesses, governmental entities, and organizations with technical assistance, training, referrals, materials, and resources on information technology and its accessibility. The Center's trainings are customized to fit the specific needs of the organizations requesting the presentations.

Visit the accessible technology section of the Great Lakes web site for more information on the services provided by the Center at <http://www.adagreatlakes.org/AIT/>.

To get additional information about accessible technology visit the Accessible Technology Bulletin at <http://www.adagreatlakes.org/Publications/ATBulletin/>.

For technical assistance questions contact the Great Lakes Center by calling 800-949-4232 (V/TTY) or by visiting the on-line contact form at <http://www.adagreatlakes.org/WebForms/ContactUs/>.

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ADA Minnesota

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ADA Ohio

700 Morse Road, Suite 101
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www.ada-ohio.org

ADA Wisconsin

1302 Mendota Street, Suite 200
Madison, WI 53714-1024
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www.adawipartnership.org

The network of Regional DBTAC ADA Centers

Your comprehensive resource for information on the Americans with Disabilities Act and accessible information technology. Call toll free at **800-949-4232 (V/TTY)** for the **MOST** complete and experienced services available to American businesses, government entities and the public. To find your local Center or for more information, visit their website.

www.adata.org

The Docket

EEOC V. Watkins Motor Lines

www.ca6.uscourts.gov/opinions.pdf/06a0351p-06.pdf

U.S. Court of Appeals for the 6th Circuit

A federal appeals court rejected the claim that morbid obesity alone is a disability under the Americans with Disabilities Act (ADA). The original case was filed in federal court in October 2002 by the EEOC where a judge ruled for Watkins Motor Lines. The lower court found that morbid obesity that does not have a physiological cause is not a disability under ADA, nor was Grindle substantially limited in any major life activity.

The employee was observed using a ladder that broke while he was using it. The employee was required to have his physician review his job duties to determine if he was fit for his job. When the employee's own physician failed to review the job duties the employee was sent to the company's physician. The company physician determined that the employee couldn't safely do his job and the company terminated the employee.

The U.S. Court of Appeals for the 6th Circuit agreed with the lower court's ruling that morbid obesity that is not caused by a physical condition is not a disability and that the trucking company did not violate the ADA when it terminated the employee.

Technical Assistance Desk

Question: I am the City Manager of a small municipality. The other day an individual came into City Hall with 3 dogs. After being questioned about this the individual stated that the Americans with Disabilities Act protected his service animals. He said that 2 of the dogs were service animals and that the other one was in training. Do we have to allow individuals to use more than one service animal in our facilities or programs?

Answer: The ADA prohibits state and local governments from discriminating on the basis of disability against qualified individuals in the provision of all programs, activities and services. Individuals with disabilities should have an equal opportunity to benefit from all programs provided. The ADA requires state and local governments to make reasonable modifications in policies, procedures and practices in order to allow individuals with disabilities an equal opportunity to participate. An example could be modifying a "No pet" policy.

In this situation the first question is whether the animals are service animals under the ADA. The federal law states that a service animal is:

An individually trained animal that performs tasks for people with disabilities such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks.

For more information please call 800-949-4232 (V/TTY) or online at:

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Chicago, Illinois 60608-6904

The Great Lakes offers resource materials on a variety of issues under the ADA and Accessible Information Technology.

Resources from the Technical Assistance Desk

Individuals may contact the Great Lakes Center to get materials on the Americans with Disabilities Act and other disability laws by calling 800-949-4232 (V/TTY) or via our [on-line contact form](#).

ADA Business Brief: Service Animals
www.ada.gov/svcanimb.htm

Nondiscrimination on the Basis of Disability in State and Local Government
www.ada.gov/reg2.html

ADA Title II Technical Assistance Manual
www.ada.gov/taman2.html

You may ask an individual if the animal is a service animal and ask the individual what task it performs. The ADA prohibits asking what an individual's disability is. Additionally, individuals can't be required to show that the animal has been certified. A service animal should be allowed to go where ever the general public is allowed to go and an individual with a disability should not be restricted from any programs or facilities because of the use of a service animal.

In this situation if the service animals perform different tasks for the individual then it may be necessary for the individual to use 2 service animals. However, an animal in training doesn't meet the definition of a service animal under the ADA. Some states however have laws that provide protections for animals in training and entities covered by the ADA should check with their state to see if such laws exist.

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