

Great Lakes Chronicle

ILLINOIS * INDIANA * MICHIGAN
MINNESOTA * OHIO * WISCONSIN

JULY 2007

VOLUME 3 ISSUE 9

Welcome to the DBTAC:
Great Lakes ADA Center's
monthly Newsletter

Trainings & Events

ADA Audio Conference Series » ADA Update: 17 Years Later

Back by popular demand; join representatives of the federal agencies for an update of their enforcement activities during the past 12 months. Join us as we mark the 17th Anniversary of the ADA and celebrate the ongoing efforts of the federal agencies to enforce the rights of individuals with disabilities.

July 17, 2007

1:00-2:30pm Central Time

www.ada-audio.org

National Council on Disability Quarterly Meeting 2007

The NCD's summer quarterly board meeting will be held July 24-26 at the Crowne Plaza Chicago. During the meeting the NCD is expected to release its ADA Implementation and Impact Study.

July 24-26, Chicago, IL,
Crowne Plaza.

www.ncd.gov

In the Headlines

The U.S. Access Board has published guidelines for outdoor developed areas for public comment. The guidelines would apply to federal parks and recreation areas under the Architectural Barriers Act. The guidelines would apply to altered and newly created trails, beaches, and picnic and camping areas. Public comments may be submitted to the Access Board until October 18, 2007.

Read more about the Guidelines at

www.access-board.gov/news/outdoor-nprm.htm

The U.S. Access Board will hold two events on July 24, 2007 in Westminster, CO. The Board will hold a town hall meeting at the Westin Westminster in the morning and hold a public hearing on the outdoor developed area guidelines in the afternoon. Read more about the Events at

www.access-board.gov/news/denver.htm

The U.S. Department of Justice (DOJ) announced a settlement agreement with Meadow-crest Hospital, LA. The settlement resolves a complaint received by the DOJ alleging that Meadow-crest Hospital failed to provide auxiliary aids and services, including qualified sign language interpreters, when those aids and services were needed for the provision of effective communication. Through the agreement Meadow-crest will insure the provision of qualified interpreters when necessary to provide effective communication and the hospital will not discriminate against individuals that associate with individuals that are deaf or hearing impaired. Also, the agreement prohibits retaliation against individuals that exercise their rights under the ADA, Section 504 of the Rehabilitation Act or under the settlement agreement. Read more about the Settlement at

www.ada.gov/meadowcrest.htm

The U.S. Department of Justice (DOJ) has posted Issue 19 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 disability rights. The new issue was posted on June 14, 2007. Read the Newsletter at

<http://www.ada.gov/disabilitynews.htm>

The U.S. Department of Justice (DOJ) has announced a settlement agreement with CIRCUS CIRCUS MISSISSIPPI, INC., resolving a complaint filed under Title III of the ADA. The complaint, filed by a wheelchair user, alleged that the individual fell and suffered injuries in one of the casino's rooms with a roll in shower because the controls were not installed in compliance with the ADA standards for accessible design. Through a compliance review the DOJ found other accessibility issues with the casino and hotel, both of which had been built after January 1993. The accessibility issues, which included doors lacking 32 inch clearance, doors requiring more than 5 pounds of pressure to open, and fixed tables and seats without wheelchair access, will be corrected as a result of the settlement agreement. Read more about the Settlement at

2007 National Council on Independent Living (NCIL) Annual Conference

The annual conference features a variety of workshops and events focused on ensuring that people with disabilities live independently. This year's Conference will also serve as the 25th Anniversary Celebration for the organization.

July 30-August 2
GRAND HYATT, D.C.
www.ncil.org

Job Accommodation Network (JAN) » 2007 Conference

The 2007 JAN conference will be held at the Hyatt Regency Crystal City in Alexandria, VA. The annual JAN Conference will cover employment law, innovative employment practices, and disability issues. Visit the JAN web site for information about conference registration and program descriptions.

August 6-7, 2007
Alexandria, VA
www.jan.wvu.edu/enews/2006/Enews-V4-I4.htm#1

The Kennedy Center Leadership Exchange in Arts and Disability: 2007 Conference and Training

Drawing on national and local resources, the conference will provide an array of opportunities to discuss:

- issues ranging from physical and programmatic access to ticketing policies and marketing strategies;
- ideas and learn what has

www.ada.gov/goldstrike/goldstrk.htm

The Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education, announced the release of a new publication entitled "Learning Opportunities for Your child through Alternate Assessment." The booklet is intended to introduce parents to the No Child Left Behind regulations and the Individuals with Disabilities Education Act. The material also provides helpful websites and other resources for information for parents.

Read more about the Booklet at
www.ed.gov/parents/needs/speced/learning/index.html

The Office of Special Education and Rehabilitation Services (OSERS,) U.S. Department of Education, has released an updated publication for children with hearing loss entitled "Opening Doors: Technology and Communication Options for Children With Hearing Loss." The publication is intended to provide information on early intervention, health care services, and the use of technology and other supports to assist children with hearing loss and their families. The publication, which is available in Spanish, is available on the Department of Education's website in Word and PDF formats. Read more at

www.ed.gov/about/offices/list/osers/products/opening_doors

The Federal Communication Commission (FCC) has issued a consumer Advisory about the problems with display of closed captioning and digital television. The FCC has made recommendations on handling the problem and has asked individuals having difficulty with captioning and digital televisions to file complaints on the FCC web site at <http://www.fcc.gov/cgb/complaints.html>. Read the alert at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-273678A1.doc

The Office of Disability Employment Policy (ODEP,) U.S. Department of Labor, has issued a new document entitled, "Advising Youth with Disabilities on Disclosure: Tips for Service Providers." The document provides information on how agencies working with youths can assist youths with disabilities on how and when to make requests for accommodations in the workplace or in post-secondary settings. The material provides information on the differences between the obligations for disclosure and documentation in K-12 settings and in employment and post-secondary environments. Read more about the Document at

www.dol.gov/odep/pubs/fact/advising.htm#content

Great Lakes in Focus

Employers strive to recruit and hire the most qualified individuals to meet their workforce needs. As the overall eligible workforce shrinks, due in part to members of the baby-boom generation retiring employers will need to seek out new pools from which to recruit qualified employees. One group that employers have not traditionally considered as part of their recruitment target is the disability community.

While some employers have proactively sought opportunities to recruit and hire individuals with disabilities others remain hesitant due to stereotypes and myths regarding hiring someone with a disability. Some of the hesitancy is rooted in the

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

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

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1640 West Roosevelt Road, Room 405
Chicago, Illinois 60608-6904

been successful at other arts organizations and cultural institutions;

- with representatives from the Disability Rights Section of the Department of Justice;
- best practices and how to develop sound policies.

August 16-19, 2007,
Minneapolis, MN

<http://www.kennedy-center.org/accessibility/lead-conference.html>

Road to Freedom Bus Tour

The Road to Freedom Bus Tour is a year-long cross country bus ride that began on November 15, 2006 in Washington, DC. The tour plans to educate audiences across the United States on the story of the Americans with Disabilities Act and the history of the disability rights movement. Visit the Road to Freedom web site for information on the dates and times for the stops along the tour.

<http://roadtofreedom.wordpress.com/freedom-bus-tour-schedule>

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

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

misperceptions employers have about the Americans with Disabilities Act (ADA) and the requirements it places on employers. Others have not tapped into the pool of potential employees with disabilities due to a lack of knowledge about how or where they can recruit applicants with disabilities or find reliable information about the ADA.

One myth about hiring individuals with disabilities is that the ADA requires employers to hire unqualified individuals. The fact is that the ADA is not an affirmative action law and employers have a right to hire the most qualified applicant. That person may or may not be the individual with a disability. The ADA prohibits an employer from making a hiring decision solely on the basis of whether or not the individual has a disability or will require a reasonable accommodation. In order for an applicant with a disability to be covered by the ADA they must be able to perform the essential functions of the job with or without a reasonable accommodation. If an individual with a disability is unable to do the job tasks with or without a reasonable accommodation then that individual is not qualified.

Another myth about employing someone with a disability is that accommodations for an employee with a disability are costly. In fact, the majority of employees with disabilities don't need accommodations in order to do their jobs'. According to findings from the Job Accommodation Network, a federally funded resource for employers, nearly two-thirds of accommodations cost less than \$500 and many accommodations requiring a change in policy or a change in the way in which things are done in the workplace don't have a cost associated with them. In addition, many small employers are eligible for federal tax incentives that can offset the cost of accommodations including making architectural changes and purchasing assistive technologies.

The myth that accommodations are "special privileges" for employees with disabilities persists in many employers minds. In fact, accommodations are only required to provide equal access to the application process, to allow an individual to perform the essential functions of the job or to provide equal access to any benefits associated with the job. The ADA requires equal access to the employment process. It does not require preferential treatment or additional benefits.

There are several federally funded projects and state agencies that provide information on the ADA and can assist employers in recruiting individuals with disabilities. The DBTAC-Great Lakes ADA Center, funded by the U.S. Department of Education, provides free, confidential technical assistance, training and material dissemination on employer responsibilities under the ADA. The Employer Assistance Recruitment Network (EARN,) funded by the U.S. Department of Labor, assists employers in distributing job postings, screening applicants and consultation on hiring individuals with disabilities. The Job Accommodation Network (JAN), funded by the US Department of Labor provides a variety of resources related to hiring and accommodating people with disabilities. Finally, state rehabilitation services provide vocational training to individuals with disabilities and can assist employers in locating qualified individuals and/or assist in identifying accommodations for employees with disabilities.

Recruiting and hiring individuals with disabilities can assist employers in filling job openings with qualified employees that have the skills needed to get the job done. As the nation's largest minority, almost 50 million individuals, people with disabilities contribute to diversity and businesses can benefit by taking steps to

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Chicago, Illinois 60608-6904

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 **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

ensure individuals with disabilities are part of their workforce and customer base.

Resources:

- DBTAC - Great Lakes ADA Center
(800) 949-4232
www.adagreatlakes.org
- Employer Assistance Recruitment Network (EARN)
(866) 327-6669
www.earnworks.com
- Job Accommodation Network (JAN)
(800) 526-7234
www.jan.wvu.edu

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 www.adagreatlakes.org/AIT

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

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

The Docket

Gambini v. Total Renal Care, Inc

<http://caselaw.lp.findlaw.com/data2/circs/9th/0535209p.pdf>

The U.S. Court of Appeals for the 9th Circuit issued a ruling in Gambini v. Total Renal Care, Inc, stating that a Washington state law covers not only the disability but also manifestations of the disability. The court ruled that misconduct stemming from a disability is "part and parcel" of the disability itself. The Court stated that a jury may find that the termination was related to the disability if they thought the conduct was caused by the disability.

Gambini has a bipolar disorder and was terminated following a violent and profane outburst during a performance meeting. The employer argued that it legitimately terminated her for misconduct.

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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

ADA Illinois

20 N Michigan, Suite 300
Chicago, IL 60602
Phone: 877-232-3601
www.ada-il.org

ADA Indiana

2853 East Tenth Street
Bloomington, IN 47408-2696
Phone: 812-855-6508
www.iidc.indiana.edu/cpps/ada/

Michigan ADA Steering Committee

29200 Vassar Blvd.
Suite 200
Livonia, MI 48152-2116
Phone: 248-473-2990
www.adamich.org

ADA Minnesota

1600 University Avenue
West, Suite 16
Saint Paul, MN 55104
Phone: 888-630-9793
www.adaminnnesota.org

ADA Ohio

700 Morse Road, Suite 101

Technical Assistance Desk

Question: I operate a funeral home and have been contacted by an individual that is deaf. She has requested that I provide an interpreter for her when she comes in with her family to discuss funeral arrangements and during her father's memorial service. What are my responsibilities under the ADA?

Answer: The Americans with Disabilities Act (ADA) requires businesses to provide persons with disabilities the same level of access to information that persons without disabilities have. Your funeral Home has an obligation to provide a qualified interpreter if it is necessary to insure effective communication with some one that is deaf or hearing impaired.

The ADA doesn't require that a qualified interpreter be provided each time one is requested. When you are determining if a qualified interpreter is needed you should consider the duration and the complexity of the information that is being discussed.

In certain situations it may be possible to effectively communicate by writing notes. However, in situations where the conversation will be long or it will include the discussion of complicated information it is likely that a qualified interpreter would be needed. It is unlikely that effective communication could be provided to this woman regarding funeral arrangements without a qualified interpreter. In this specific situation, discussing all of the various aspects of the funeral arrangements you have to offer would be difficult for some one whose primary language is American Sign language through the use of notes.

You are only responsible for insuring equal access to information regarding your goods and services. If the memorial service is taken place at a church, synagogue, mosque or at any other location controlled by another religious entity or organization you are not responsible to insure effective communication. If the memorial service is not one of the services your funeral home provides then you are not responsible for providing effective communication for the service. Since religious entities are not covered by the ADA the family would need to check to see if any state regulation required the religious entity to provide effective communication for the memorial service.

If you have additional questions regarding the ADA contact the DBTAC Great Lakes ADA Center by calling (800) 949-4232 (V/TTY) or by visiting the online contact form www.adagreatlakes.org/WebForms/ContactUs.

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Columbus, OH 43214
Phone: 800-232-6446
www.ada-ohio.org

ADA Wisconsin

1302 Mendota Street, Suite
200
Madison, WI 53714-1024
Phone: 608-244-5310
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 businesses,
government entities and the
public. To find you local
Center or for more
information, visit their
website.
www.adata.org

**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](#)

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[contact form](#)

ADA Title III Technical
Assistance Manual
4.3200 Effective
communication

<http://www.ada.gov/taman3.html>

Department of Justice ADA
Title III Regulation 28 CFR
Part 36

Sec.36.303 Auxiliary aids
and services.

<http://www.ada.gov/reg3a.html>

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