

Great Lakes Chronicle

ILLINOIS * INDIANA * MICHIGAN
MINNESOTA * OHIO * WISCONSIN

NOVEMBER 2007

VOLUME 4 ISSUE 2

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

Trainings & Events

Minnesota Career Development for the 21st Century Career Fair and Disability Mentoring Day

The Minnesota Business Leadership Network (BLN) will be holding its 2007 conference at the McNamara Alumni Center, University of Minnesota, Minneapolis, MN. The event will feature a keynote address by Jennifer Sheehy and will include sessions for high school students, transition students, college students, job seekers and veterans with disabilities. A job fair for college students and veterans will also take place.

November 8, 2007
www.mnbln.org

ADA Audio Conference Series » Ask the EEOC: Questions and Answers

Join us for one of the most popular sessions in the ADA Audio Conference Series. The session will provide an update on EEOC Enforcement Activities and Guidance. Participants will be able to pose questions to the session speaker. This is an interactive session and participants are encouraged to bring difficult issues and concerns forward.

November 13, 2007
1:00-2:30pm Central Time
www.ada-audio.org

In the Headlines

U.S. Access Board

The U.S. Access Board announced that two newly formed committees held their first meetings. The Committee on Emergency Housing is examining the accessibility issues faced by persons with disabilities with portable emergency housing. The committee plans to issue guidelines to assist federal, state, and local agencies to insure that portable housing used in emergency situations is accessible to individuals with disabilities. The second committee, Vessel Alarms Committee, is examining issues for providing access to emergency alarms systems on vessels to individuals that are deaf and hearing impaired. This committee plans to issue guidelines to assist vessel manufacturers, vessel operators and others on how best to make emergency vessel alarms accessible. Read more about the committees at www.access-board.gov.

U.S. Department of Education

The U.S. Department of Education announced that twenty-seven states were awarded fourteen million in grants to assist in the assessment of children with disabilities under No Child Left Behind and the Individuals with Disabilities Education Act. The grants will be used by the states for developing Modified academic achievement standards, state assessments based on modified or alternate academic achievement standards, clear and appropriate guidelines for Individualized Education Program teams, and training on the guidelines. Read more about the Dept. of Education grants at www.ed.gov/news/pressreleases/2007/10/10092007.html.

U.S. Department of Housing and Urban Development

The U.S. Department of Housing and Urban Development announced grants to assist lower income individuals with obtaining accessible affordable housing. The \$124.8 million in Grants through Section 811 will assist low-income individuals with disabilities by increasing community supports services and by enlarging the supply of rental housing. Individuals will pay 30 percent of adjusted incomes with the government paying the remainder of the monthly rent. Read more about the HUD grants at www.hud.gov/news/release.cfm?content=pr07-157.cfm.

U.S. Department of Justice

The U.S. Department of Justice announced that Sarasota County, Fla., has agreed to pay \$760,000 to settle two lawsuits alleging that the county discriminated against persons with disabilities. The lawsuits alleged that the county was in violation of the ADA when it refused to allow group homes operate that serve persons in recovery from alcohol and substance abuse. Read more about the settlement at www.usdoj.gov/opa/pr/2007/October/07_crt_854.html.

The U.S. Department of Justice has settled a housing discrimination Case with an Iowa landlord. The lawsuit alleged the landlord was in violation of the Fair Housing Act because it maintained a policy of requiring prospective tenants to divulge mental health information. The complaint further alleged that in certain instances individuals were required to provide medical records. Under the consent decree the defendants will pay \$40,000 in monetary relief to the complainants and the

Road to Freedom Bus Tour

The Road to Freedom Bus Tour is a year-long cross country bus ride that began on November 16, 2006 in Washington D.C. The tour educates 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.

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.

United States. Read more about the settlement at http://www.usdoj.gov/opa/pr/2007/October/07_crt_847.html.

The U.S. Department of Justice has announced a settlement agreement with Sylvan Learning Centers, L.L.C. Sylvan provides in person and online tutoring and personalized instruction to students primarily in grades pre-K through 12. The agreement resolves a complaint filed under Title III of the ADA by a mother of an individual who is deaf. Sylvan has agreed to adopt policies and procedures that will insure that needed auxiliary aids and services are provided to deaf and hearing impaired individuals so effective communication is achieved. Further, Sylvan agrees that it will not discriminate on the basis of disability in the services they provide. Read more about the settlement at www.ada.gov/sylvanlearn.htm.

The U.S. Department of Justice has updated its web site with new ADA court filings. The updates are briefs that the DOJ has filed in ADA related court cases. The cases pertain to Titles I, II and III of the Americans with Disabilities Act and to Section 504 of the Rehabilitation Act of 1973. The Briefs include:

- Access Living v. Chicago Transit Authority
- House v. City of Jackson
- Kitson v. Peoples Heritage Savings Bank
- Lonberg v. Sanborn Theaters
- Padilla v. Ryan
- Pinnock v. International House of Pancakes Franchisee
- PVA v. Ellerbe Becket Architects
- Spector v. Norwegian Cruise Line Ltd.
- United States v. HealthTexas Medical Group of San Antonio, Primary Carenet of TX, Humana Gold Plus, Pacificare of TX and Secure Horizons
- United States v. NY State Dept. of Motor Vehicles, NY State Dept. of Education and Three Villages Central School District
- United States v. US Golf Association

Read more about the ADA Briefs at www.ada.gov/briefs/adabrief.htm.

U.S. Department of Labor

The U.S. Department of Labor announced that it will recognize seven businesses, organizations and individuals for exemplary disability employment practices. The sixth annual New Freedom Initiative Awards for exemplary and innovative efforts in furthering the employment for people with disabilities will go to:

- The Dow Chemical Co., Midland, Mich.
- Gap Inc., San Francisco, Calif.
- Northrop Grumman Corp., Los Angeles, Calif.
- The Laurie Mitchell Employment Center, Alexandria, Va.
- Positive Vibe Café, Richmond, Va.
- John D. Kemp Esq., Powers, Pyles Sutter & Verville P.C., Washington, D.C.

Read more about the awards at www.dol.gov/opa/media/press/odep/odep20071611.htm.

The U.S. Department of Labor, Office of Disability Employment Policy, announced an alliance with CVS Caremark. The purpose of the partnership is to promote the employment of workers with disabilities. The alliance will allow the sharing of information, guidance and resources that will help to develop programs that may be used by other employers to increase the employment opportunities for workers with disabilities. Read more about the agreement at www.dol.gov/opa/media/press/odep/odep20071653.htm.

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

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

DBTAC: Great Lakes ADA Center
University of Illinois at Chicago

Department of Disability and Human Development (MC 728)
1640 West Roosevelt Road, Room 405
Chicago, Illinois 60608-6904

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 rules requiring telecommunications manufacturers and service providers to make their products and services accessible to people with disabilities, if readily achievable.

www.fcc.gov

Great Lakes In Focus

Beginning with the December/January issue of the Great Lakes Chronicle, the online newsletter will be enhancing the information and resources provided to assist businesses, employers, organizations and government agencies with their compliance responsibilities under the Americans with Disabilities Act (ADA). Each issue of the Chronicle will focus on a single topic/issue. Each issue will provide the ADA requirements, excellent resources and also include examples of best practices that employers, businesses, government agencies and other covered organizations use to comply with the ADA and are also use to enhance organizational procedures and practices. The goal is to highlight best practices so they may be used by other organizations.

The Chronicle will continue to provide the latest information from federal agencies regarding technical assistance materials, rule making, new regulations, resources and enforcement. In addition, the newsletter will include the listing of more events/conferences that organizations may use for training purposes. The list of topics/issues to be covered over the next twelve months include:

December/January 07/08 Maintenance of Accessible Building Features
February 08 Writing Effective Job Descriptions
March 08 Applications and Interviews: Insuring Access to All Applicants
April 08 Barrier Removal and Improving Access
May 08 Equal Employment Opportunity Commission (EEOC) Statistics and What They Mean for Employers
June 08 Planning Accessible Temporary Events
July 08 An Effective Accommodation Process Pt. 1
August 08 An Effective Accommodation Process Pt. 2
September 08 Serving Customers with Disabilities in the Hospitality Arena
October 08 Disability as Part of Employer Diversity Outreach
November 08 Accessible Web Sites

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

Jones vs. UPS

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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.adaminnesota.org/

ADA Ohio

700 Morse Road, Suite 101
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

(<http://caselaw.findlaw.com/data2/circs/10th/063088p.pdf>)

The 10th Circuit Court of Appeals reversed a lower district court's summary judgment in favor of UPS. Mr. Jones was a UPS driver when he suffered a shoulder injury on the job. One of the essential functions of this position is being able to lift 70 pounds over the head. Jones was unable to perform this function following several medical examinations.

The supervisor for Jones told him that UPS had no positions for him if he had permanent restrictions. Jones filed a complaint with the Equal Employment Opportunity Commission (EEOC) and subsequently filed his lawsuit. The lawsuit alleged that the UPS policy regarding permanent restrictions was a violation of the ADA and that UPS retaliated against him for filing a workers compensation claim.

The district court granted summary judgment in favor of UPS stating that Jones had not established that he was a qualified individual with a disability under the ADA. The Appeals Court reversed that the lawsuit could continue on whether the policy was a discriminatory policy under the ADA.

Technical Assistance Desk

Question: I am constructing a two story building that qualifies for the elevator exemption because it is less than three stories. If a building qualifies for the elevator exemption, do any other ADA standards for accessible design apply on the second floor of the building? The owner of the building thinks that only the first floor must comply with the ADA standards.

Answer: The ADA elevator exemption, ADAAG section 4.1.3 (5) Exemption 1, applies to buildings with less than three stories and less than 3000 square feet per floor. The building does not need to meet both requirements in order to qualify for the exemption. The exemption applies unless the building is:

A shopping Center/Mall or:

The professional offices of a Health Care Provider or:

A Public Transit station or Airport Passenger Terminal.

State and local government facilities do not qualify for the elevator exemption under the ADA standards.

While an elevator is not required in buildings qualifying for the exemption all other ADA requirements apply. For example, if a newly constructed two-story building will be used as real estate offices and there will be bathrooms on both the ground floor and the second floor both bathrooms must comply with the ADA standards. Any other features located in common use spaces, drinking fountains, pay phones, must also follow the standards. Stairs connecting levels not served by another accessible means, ramps, elevators, lifts, must comply with ADAAG section 4.9 applying to stairs. In addition, parking provided for employees, visitors and customers, ADAAG section 4.1.2 (5) and section 4.6, as well as accessible routes from the parking lot and public sidewalks and public transportation, ADAAG section 4.3, must comply with ADA requirements.

If you have questions about the ADA you may contact the DBTAC: Great Lakes ADA Center by calling **800-949-4232 (V/TTY)** or by visiting our on-line contact

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**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 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 contact form](#).

ADA Standards for Accessible Design
www.ada.gov/reg3a.html#Anchor-15326

ADA Title III Technical Assistance Manual
www.ada.gov/taman3.html

form at www.adagreatlakes.org/WebForms/ContactUs/

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Guide to ADAAG Provisions

www.access-board.gov/adaag/about/guide.htm

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