

# Great Lakes Chronicle

ILLINOIS \* INDIANA \* MICHIGAN  
MINNESOTA \* OHIO \* WISCONSIN

JULY 2008

VOLUME 4 ISSUE 9

## Training and Events

### **ADA Celebration - State of Illinois**

July 15, 2008, 10:00 am - 3:00 pm

Join the State of Illinois in commemorating the 18th anniversary of the signing of the Americans with Disabilities Act — ADA: Live the Dream. Features include an art exhibit, a wearable art fashion show, informational workshops on ADA issues, entertainment provided by performers with disabilities, an ADA Help Table, a three-on-three wheelchair basketball exhibit and much, much more.

James R. Thompson Center, 100 West Randolph Street, Chicago, IL

CONTACT: For more information and workshop registration, call: 312-793-0034 (Voice), 312-793-3597 (TTY), or 888-614-2385 (TTY/Nextalk).

### **ADA Audio Conference**

July 15th, 2008 1:00-2:30 PM CDT.

ADA Update: 18 Years Later

Mark the 18th Anniversary of the ADA by joining this audio conference as we listen to representatives of the Federal Agencies present an update on their litigation, technical assistance and enforcement efforts over the past year. Participants will have an opportunity to pose questions to the presenters regarding issues in their own workplace or community.

<http://www.ada-audio.org>

### **2008 Accessible Technology On-line Seminar Series**

July 22, 2008 1:00-2:30 PM CDT.

ADA Coverage Beyond Actual Disability: Regarded as, Record of and Association Disability

The ADA provides protections to people who may not have a current ADA defined disability. This session will review the ADA and its regulations; EEOC guidance and recent case law, as well as provide employers with information that will help them to avoid pitfalls that may be encountered when navigating this often overlooked area of the law.

<http://www.ada-audio.org/Webinar/ADALegal>

### **18th Anniversary of the Signing of the Americans with Disabilities Act**

July 25, 2008, 1:00-3:00 PM

Join the State of Minnesota in celebrating the 18th anniversary of the signing of the ADA. An update on the ADA Restoration Act will be provided by Peter Berg, Project Coordinator of Technical Assistance and Employer Outreach, DBTAC: Great Lakes ADA Center. Entertainment will be provided by guitarist Kip Shane and Jim Hanson on harmonica. Minnesota Department of Health, 164  
RSVP at 651-646-8342

### **2008 Accessible Technology On-line Seminar Series**

August 11, 2008 1:00-2:00 PM CDT.

ADA and Website Accessibility

The Americans with Disabilities Act (ADA) does not explicitly discuss whether it applies to websites, and thus far, there have been few cases. Website accessibility cases courts have reached different conclusions as to whether websites are covered under the ADA. This session will discuss current standards and guidelines of website accessibility and recent legal developments and their potential implications.

<http://www.ada-audio.org/Webinar/AccessibleTechnology>

## **The Kennedy Center's Leadership Exchange in Arts and Disability conference and training (LEAD)**

August 21-24, 2008

This conference and training will touch on a variety of topical issues including:

- Legal issues with representatives of the U.S. Department of Justice Disability Rights office, and Peter Blanck, PhD.
- Marketing and building audiences with Nadine Vogel
- Exploring exciting ways to make inclusive educational programs effective
- Hands on surveying of the physical environment for those renovating, building new facilities or putting on an addition
- Ticketing policies and how to craft good ones.

Broward Center for the Performing Arts  
Ft. Lauderdale, FL

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

### **National Center on Accessibility**

Retrofitting for Accessibility

September 8-11, 2008

The National Center on Accessibility training course "Retrofitting for Accessibility" is designed for maintenance professionals, construction specialists, facility managers, trails supervisors, architects, forest access coordinators, landscape architects, civil engineers, parks planners, visitor services specialists, program development specialists, preservation supervisors, concessionaires, safety officers, and accessibility coordinators. Curriculum emphasis will include application of accessibility standards, barrier removal, safety issues associated with accessibility, and ongoing facility maintenance to assure optimum access for visitors including those with disabilities. This course has an active field-based component that is designed to provide hands-on experiences identifying design problems in existing facilities and viable solutions for improving access.

Gatlinburg, Tennessee

<http://www.ncaonline.org/index.php?q=node/695>

## **News from the Federal Agencies**

### **U.S. Access Board**

The Access Board will hold a public meeting on the topic of beach access on July 23, 2008 to help further the board's development of guidelines for out-door areas. The meeting will take place from 9:00 - 12:00 at the Westin Arlington Gateway, 801 North Glebe Road, in Arlington, VA. The public meeting will focus on design and maintenance considerations for accessible routes at beaches. Read more about the meeting at

<http://www.access-board.gov/news/beach-meeting.htm>

The Access Board held a Town Hall meeting in conjunction with the 2008 National ADA Symposium in St. Louis, MO. Attendees of the ADA Symposium had an opportunity to provide comments to the Access Board. Several comments focused on bathroom and hotel room access, including the provision of seats in roll-in showers, questions about how the minimum dimensions of such showers are to be measured, and the need to limit the height of hotel beds to facilitate transfer. Participants also urged the Board to take action or provide guidance on addressing the opening force of exterior doors, accessible traffic signals, the provision of closed captioning in movie theaters. Read more about the meeting at

<http://www.access-board.gov/news/town-meeting2008.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

## U.S. Equal Employment Opportunity Commission

The Equal Employment Opportunity Commission announced that Wal-Mart will pay \$200,000 to settle a lawsuit the Commission had brought on behalf of a former pharmacist. The lawsuit alleged that Wal-Mart had failed to provide a reasonable accommodation and then improperly fired the employee stating that the individual was unable to perform the essential functions of the job when in fact the employee was able to perform the job satisfactorily. Wal-Mart entered into negotiations to settle the case after its motion for summary judgment was denied. Read more about the Wal-Mart settlement at <http://www.eeoc.gov/press/6-9-08.html>.

## U.S. Department of Justice

The U.S. Department of Justice will be holding a public hearing on its notices to revise its regulations under Titles II and III of the Americans with Disabilities Act. The public hearing is scheduled for July 15, 2008, 9:00 a.m. to 5:00 p.m., EDT. The hearing will be held at the Marriott Hotel at Metro Center, 775 12th Street, N.W., Washington, D.C. For further information contact Linda Garrett, Civil Rights Program Specialist, Disability Rights Section, Civil Rights Division by email at [Linda.Garrett@usdoj.gov](mailto:Linda.Garrett@usdoj.gov) or by telephone at (202) 353-0423 (TTY or Relay). Read more about the public hearing at <http://www.ada.gov/NPRM2008/nprmhearing08.htm>.

The Department of Justice announced that it had reached a settlement agreement with the International Spy Museum. The settlement resolves a complaint filed under Title III of the Americans with Disabilities Act alleging discrimination against individuals that are blind or that have low vision. The complaint filed in 2004 with the Department of Justice stated that the Museum failed to provide print materials in alternative formats, that exhibits were inaccessible, computers lacked speech output and tours were not accessible. The Museum will ensure the content of its exhibits, public programs, and other offerings are accessible and effectively communicated to individuals with disabilities. When necessary, appropriate auxiliary aids and services will be available to ensure effective communication to individuals with hearing and vision impairments unless taking such steps would fundamentally alter the nature of the content of such exhibits, public programs and offerings or result in an undue burden. Read more about the International Spy Museum settlement at <http://www.ada.gov/spymuseum.htm>.

## Great Lakes in Focus

### Proposal to Revise ADA Regulations under Title II and Title III

The U.S. Department of Justice (DOJ) has issued proposals to adopt revisions to its Title II and Title III regulations and new design standards for facilities under the Americans with Disabilities Act (ADA). The proposed revisions to the standards for accessible design are based on revised guidelines issued in 2004 by the U.S. Access Board. The DOJ has responsibility for enforcing standards for new construction and alterations under the ADA. DOJ's standards apply to the construction and alteration of all facilities covered by the ADA except transportation facilities, which are subject to standards enforced by the U.S. Department of Transportation (DOT).

The new standards would apply to state and local government facilities subject to title II of the ADA and to places of public accommodation and commercial facilities covered by title III of the law. DOJ issued separate notices under each title. The notices also address issues relating to the effective dates.

The DOJ is also revising other sections of its Title II and III regulations. New or revised provisions are proposed concerning removal of barriers in existing facilities, accommodation of service animals, maintenance of accessible features, policies and practices governing various services, including hotel reservations, ticket sales and accessible seating, and provision of auxiliary aids, services, and effective communication, including captioning, narrative description, and video interpreting services.

The DOJ has announced a 60 day public comment period as part of the rule making process. Comments are due by August 18th and can be submitted through the [www.regulations.gov](http://www.regulations.gov) website. DOJ plans to hold a public hearing on the notices in Washington, D.C. during the comment period. In addition the DOJ is participating in a special ADA Audio Conference on July 8, 2008. Information about the audio conference may be found in the Events section of this issue of the Chronicle.

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

## Resources

Notice of Proposed Rulemaking to amend 28 CFR Part 35: Nondiscrimination on the Basis of Disability in State and Local Government Services

[http://www.ada.gov/NPRM2008/t2NPRM\\_federalreg.htm](http://www.ada.gov/NPRM2008/t2NPRM_federalreg.htm)

Notice of Proposed Rulemaking to amend 28 CFR Part 36: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities

[http://www.ada.gov/NPRM2008/t3NPRM\\_federalreg.htm](http://www.ada.gov/NPRM2008/t3NPRM_federalreg.htm)

Appendix A: Analysis of the Proposed Standards

[http://www.ada.gov/NPRM2008/appendix\\_a.htm](http://www.ada.gov/NPRM2008/appendix_a.htm)

Appendix B: Initial Regulatory Assessment

[http://www.ada.gov/NPRM2008/appendix\\_b.htm](http://www.ada.gov/NPRM2008/appendix_b.htm)

Initial Regulatory Impact Analysis Of The Proposed Revised Regulations Implementing Titles II And III of the ADA, Including Revised ADA Standards For Accessible Design

<http://www.ada.gov/NPRM2008/ria.htm>

Proposed ADA Standards For Accessible Design

[http://www.ada.gov/NPRM2008/ada\\_standards/proposedadastds.htm](http://www.ada.gov/NPRM2008/ada_standards/proposedadastds.htm)

## The Docket

**BELLINO, JOSEPH v. MINETA, NORMA**

<http://caselaw.lp.findlaw.com/data2/circs/7th/072068p.pdf>

The 7<sup>th</sup> Circuit Court of Appeals has affirmed a lower Court's dismissal of a lawsuit alleging violations of the Rehabilitation Act for failure to provide reasonable accommodations, retaliation for filing a complaint with the Equal Employment Opportunity Commission, and creating a hostile work environment. The lawsuit was filed by a former air traffic controller against the Federal Aviation Administration. The lower Court's summary judgment ruling for the defendant was affirmed because the Court of Appeals found that a job offer to the plaintiff was a reasonable accommodation, the plaintiff failed to show that a similarly situated employee who did not file an EEO complaint was treated more favorably and, the plaintiff failed to show that defendant's treatment of his disability created a hostile work environment.

## From the ADA Expert

**Question:** Our town has an ordinance limiting the number of dogs to two per household. There is a family that has stated that they have one dog that is a pet and two others that are guide dogs for the father and the son. They both have vision impairments. Does the town need to allow this family to have more than 2 dogs in their home?

**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 an ordinance that limits the number of dogs in a household.

In this situation the first question is whether the animals are service animals under the ADA. The 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:

<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

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 not 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.

For additional information contact the DBTAC - Great Lakes ADA Center by calling (800) 949-4232 (V/TTY) or email us via our online contact us form at <http://www.adagreatlakes.org/WebForms/ContactUs/>.

## Suggested Resources

ADA Business Brief: Service Animals

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

Nondiscrimination on the Basis of Disability in State and Local Government

<http://www.ada.gov/reg2.html>

ADA Title II Technical Assistance Manual

<http://www.ada.gov/taman2.html>

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