

December- January 2014-

2015

Trainings & Events

(Central Standard Time)

ADA Audio Conference Series

Accommodating Persons with Environmental Sensitivities: Challenges and Solutions

December 16, 2014 1-2:30 CT. This webinar will focus on people with chemical, electrical, and/or environmental sensitivities or intolerances. The presenters will address the nature of these disabilities and examine federal recognition and policy development. They will discuss how to accommodate people with environmental illnesses by reducing or eliminating environmental barriers in the public and private sector including housing, employment, healthcare, and in other areas.

Session Objectives:

Provide back ground information regarding the nature of environmental sensitivities including how these disabilities impact individual lives.

Discuss the prevalence of chemical and electrical sensitivities in the general population.

Review some of the key public policy issues surrounding the rights of people with environmental sensitivities.

Highlight the importance of indoor environmental quality to enhanced access for people with these disabilities.

Discuss what policies and practices can improve access for people with chemical and electrical sensitivities. Understand how to reduce or eliminate environmental barriers to promote accommodations for people with environmental sensitivities.

VOLUME 11 ISSUE 3

News from the Federal Agencies

U.S. Access Board

Board Sponsored Study Examines Impacts of Rough Surfaces on Wheelchair Traffic

A study funded by the U.S. Access Board was recently completed on how the roughness of pathway surfaces impacts wheelchair travel. This research, which was conducted by the Human Engineering Research Laboratories at the University of Pittsburgh, assessed the impacts of bumpy and uneven surfaces on people who use wheelchairs, including power chairs, by measuring the resulting body vibrations. While there are ways to measure and analyze surface roughness for roadways, none are capable of being directly transferred to pedestrian pathways.

[Read the Access Board Report= http://www.access-board.gov/research/completed-research/surface-roughness-final-report](http://www.access-board.gov/research/completed-research/surface-roughness-final-report)

U.S. Equal Employment Opportunity Commission (EEOC)

Department of Education Reaches Agreement with Youngstown State University Regarding Web Site Access

The U.S. Department of Education announced that its Office for Civil Rights has entered into an agreement with Youngstown State University in Ohio to ensure that the school's websites comply with federal civil rights laws prohibiting discrimination on the basis of disability. The agreement ends an OCR investigation and commits the 13,000-student public institution in northeast Ohio to providing equal access to educational opportunities for students with disabilities and to ensuring that the school's websites are accessible to persons with disabilities, including students, prospective students, employees and visitors.

[Read the Settlement Agreement between Youngstown State University and the Department of Education= http://www2.ed.gov/documents/press-releases/youngstown-state-university-agreement.pdf](http://www2.ed.gov/documents/press-releases/youngstown-state-university-agreement.pdf)

U.S. Equal Employment Opportunity Commission (EEOC)

Court Holds Supervalu/Jewel-Osco in Contempt for Violations of EEOC Consent Decree in Disability Case

CHICAGO - Federal District Judge Ronald A. Guzman has entered a final opinion and order finding Supervalu/Jewel-Osco in contempt of court for multiple violations of the consent decree previously entered by the court to resolve the EEOC's Americans with Disabilities Act (ADA) lawsuit against the supermarket giant.

Ruling on objections Jewel-Osco had filed to a magistrate judge's report and recommendation, made after a three-day hearing in March and April 2014 that found that Jewel had violated the consent decree, Judge Guzman found on December 2 that Jewel failed to conduct an interactive process with and provide accommodations to three former Jewel-

Review advocacy initiatives that promise to advance medical and disability research, enhance understanding, and promote access for impacted populations.

Presenters:

[Darrell Lynn Jones](#), IL-NET and New Community Opportunities Center Independent Living Research Utilization, Houston, TX

[Mary Lamielle](#), Executive Director National Center for Environmental Health Strategies, Inc.

For more information visit

For more information visit [ADA](#)

[Audio Conference site](#) at

[http://www.ada-audio.org\(877\) 232-1990](http://www.ada-audio.org(877) 232-1990)

AccessibilityOnline Webinar Series

Accessible Hospitals and Medical Care Facilities - "Advanced Session"

January 8th, 2015 1:30 -3:00 CT.

Section 223 of the 2010 ADA Accessibility Standard and the Architectural Barriers Act

Accessibility Standard includes scoping provisions for medical care and long term care facilities.

Presenters will engage in a more "advanced" level discussion on patient room scoping for both medical and long term care facilities, special technical provisions for parking at specialized facilities, alarm systems and toilet rooms in intensive care units, etc. Presenters will also provide an update on the Board's rulemaking on Medical Diagnostic Equipment. Attendees are encouraged to review the previous session on this topic and submit questions in advance for this discussion.

Speakers:

[Rex Pace](#), Senior Accessibility Specialist and Technical Assistance Coordinator, US Access Board

[Earlene Sesker](#), Accessibility Specialist, US Access Board

For more information

visit [AccessibilityOnline](#) at

[http://www.accessibilityonline.orgor\(877\) 232-1990](http://www.accessibilityonline.orgor(877) 232-1990)

ADA Audio Conference Series

Osco employees who attempted to return to work from medical leaves of absence.

[Read More about the Supervalu/Jewel-Osco Contempt Decision at=](http://www.eeoc.gov/eeoc/newsroom/release/12-4-14.cfm)
<http://www.eeoc.gov/eeoc/newsroom/release/12-4-14.cfm>

Maxim Healthcare Services Will Pay \$75,000 to Settle EEOC Disability Discrimination Suit

Maxim Healthcare Services, Inc., a nationwide staffing service for nurses and other health care professionals, will pay \$75,000 to resolve a federal disability discrimination lawsuit, the U.S. Equal Employment Opportunity Commission (EEOC) announced. According to the lawsuit, Maxim Healthcare Services in Pittsburgh refused to hire a candidate for an assignment because that individual was HIV-positive.

[Read More about the Maxim Healthcare Settlement with the EEOC at=](http://www.eeoc.gov/eeoc/newsroom/release/12-3-14.cfm)
<http://www.eeoc.gov/eeoc/newsroom/release/12-3-14.cfm>

Paloma Blanca in Albuquerque Settles EEOC Disability Discrimination Suit for \$145,000

Paloma Blanca Health Care Associates, LLC, d/b/a Paloma Blanca Health and Rehabilitation, which owns and operates a health and rehabilitation center in Albuquerque, has agreed to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC) for \$145,000 and other relief, the agency announced. According to the EEOC's suit Paloma Blanca refused to reasonably accommodate Doug Johnson's disabilities. The company then fired him because of his medical conditions and/or because he requested the reasonable accommodations he needed.

[Read More about the Settlement between Paloma Blanca and EEOC=](http://www.eeoc.gov/eeoc/newsroom/release/12-2-14a.cfm)
<http://www.eeoc.gov/eeoc/newsroom/release/12-2-14a.cfm>

Disability Network Will Pay \$38,500 to Settle EEOC Disability Discrimination Lawsuit

Detroit Center for Independent Living, d/b/a Disability Network / Wayne County, will pay \$38,500 to settle a federal disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). According to the EEOC's suit, Disability Network denied a deaf employee, who worked as an independent living specialist for the non-profit, reasonable accommodations such as TTY equipment, a video phone and the ability to use text messaging.

[Read More about the Settlement between Disability Network and the EEOC=](http://www.eeoc.gov/eeoc/newsroom/release/11-26-14.cfm)
<http://www.eeoc.gov/eeoc/newsroom/release/11-26-14.cfm>

Angel Medical Center to Pay \$85,000 to Settle EEOC Disability Discrimination Suit

Angel Medical Center, Inc., a full-service critical access hospital located in Franklin, N.C., will pay \$85,000 to settle a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC had charged that the hospital unlawfully refused to accommodate a nurse undergoing cancer treatments and subsequently fired her because of her disability.

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

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

January 20, 2015 1-2:30 CT

Understanding the implications of integrated accessibility in new construction and alteration projects starts at the very beginning stages of concept and site development. It's important to involve everyone in all aspects of the design process from the architects and designers to the construction team and most importantly, the end users. This session will discuss these concepts and introduce the Universal Design balance with ADA compliance. A concept of "Experiential Equity" will be discussed in the realm of design and construction processes.

Achieving ideal accessibility requires comprehension and commitment from all involved with an inclusive vision from the project leaders. This session will examine and explore successful techniques to achieve this goal.

Speakers:

[Andrea Haenlin-Mott](#), Cornell University

For more information visit [ADA Audio Conference site](#) at <http://www.ada-audio.org/> or call (877) 232-1990.

AccessibilityOnline Webinar Series

Accessible Play Areas - "Advanced Session"

February 5th, 2015 1:30 -3:00 CT. It's been over 2 years since the new accessibility standards have been required for all newly constructed and altered play areas. This session will focus on a more "advanced" level discussion regarding issues such as the selection of suitable playground surfaces, applying the scoping and technical provisions to altered sites, and other more frequently asked questions.

Attendees are encouraged to review the previous session on this topic and submit questions in advance for this discussion.

Speakers:

[Bill R. Botten](#), Accessibility Specialist, Office of Technical and Information Services, US Access Board

[Read about the Settlement Agreement between Angel Medical and the EEOC=](http://www.eeoc.gov/eeoc/newsroom/release/11-24-14.cfm)
<http://www.eeoc.gov/eeoc/newsroom/release/11-24-14.cfm>

Amsted Rail's Hiring Practices Violate Disability Discrimination Law, EEOC Charges in Lawsuit

Amsted Industries, Inc. and Amsted Rail Co. Inc., a leader in the manufacture of steel castings for the rail industry, improperly used physical tests and applicants' health histories in the hiring process at their Granite City, Ill., facility, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed. The result of these practices, according to the agency, was to deny employment opportunities to a class of people who had a history of carpal tunnel syndrome or who Amsted believed might develop that condition.

[Read about the Settlement between the EEOC and Amsted Rail's =](http://www.eeoc.gov/eeoc/newsroom/release/11-20-14.cfm)
<http://www.eeoc.gov/eeoc/newsroom/release/11-20-14.cfm>

U.S. Department of Justice (DOJ)

Justice Department Reaches Settlement Agreement with Peapod Online Grocery Shopping and Delivery Service

The Justice Department announced that it has entered into a Settlement Agreement with Ahold U.S.A., Inc. and Peapod, LLC (Peapod), the owners and operators of www.peapod.com, to remedy alleged violations of the Americans with Disabilities Act (ADA). The agreement resolves the Department's allegations that www.peapod.com is not accessible to some individuals with disabilities, including individuals who are blind or have low vision, are deaf or hard of hearing, and individuals who have disabilities affecting manual dexterity. Under the agreement, Peapod will adopt measures to ensure that users with disabilities are able to fully and equally enjoy the various goods, services, facilities, and accommodations provided through www.peapod.com, including: conforming the website and mobile applications to, at minimum, the Web Content Accessibility Guidelines 2.0 Level AA Success Criteria (WCAG 2.0 AA), except for certain third party content; designating a Web Accessibility Coordinator; adopting a Web Accessibility Policy; soliciting customer feedback on how website accessibility can be improved; providing automated and user website and mobile application accessibility testing; and training Peapod's website content personnel on website accessibility.

[Read the Settlement Agreement between the Justice Department and Peapod Online Grocery Shopping and Delivery Service=](http://www.ada.gov/peapod_sa.htm) http://www.ada.gov/peapod_sa.htm

Justice Department Reaches Agreement with City of Ocean Springs, MS to Resolve Disability Discrimination Lawsuit

The Justice Department announced a comprehensive settlement resolving a federal civil rights lawsuit against the City of Ocean Springs, Mississippi, for alleged violations of the Americans with Disabilities Act (ADA). Under the proposed consent decree, the City will pay \$437,500 in damages to a psychiatric treatment facility that was discriminated against by the City. The decree also requires systemic reforms to the City's land use and zoning practices to eliminate barriers for providers of mental health services to people with disabilities and combat the stigma of mental illness. The complaint, also filed in federal court

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[Peggy H. Greenwell](#), Accessibility Specialist, Office of Technical and Information Services, US Access Board
For more information visit [Accessibility Online](#) at <http://www.accessibilityonline.org> or (877) 232-1990

today, alleges that the City discriminated against Psycamore, LLC, an outpatient psychiatric treatment facility, when it denied a certificate of occupancy and a use permit because Psycamore treats patients with mental illness.

[Read the Justice Department Consent Decree with City of Ocean Springs, MS=](http://www.ada.gov/ocean_springs/ocean_springs_cd.htm)
http://www.ada.gov/ocean_springs/ocean_springs_cd.htm

Justice Department Reaches Settlement with Franciscan St. James Health

The Justice Department announced a settlement with Franciscan St. James Health (St. James), to ensure that patients and companions who are deaf or hard of hearing receive sign language interpreters and other services necessary to ensure effective communication, in compliance with Title III of the Americans with Disabilities Act (ADA). Under the agreement, St. James will pay \$70,000 in damages to a patient who is deaf who was denied a sign language interpreter throughout her four day stay in the hospital. The settlement also requires that St. James provide auxiliary aids and services, including sign language interpreters, to people who are deaf or hard of hearing within prescribed time frames and free of charge; designate an ADA Administrator; utilize their grievance resolution systems to investigate disputes regarding effective communication with deaf and hard of hearing patients; post notices of their effective communication policy; and train hospital personnel on the effective communication requirements of the ADA. The settlement is part of the Department's Barrier-Free Health Care Initiative, a partnership of the Civil Rights Division and U. S. Attorney's offices across the nation to ensure that people with disabilities, including those who are deaf or hard of hearing, who have HIV, or who have mobility disabilities, have equal access to medical services.

[Read the Justice Department Settlement with Franciscan St. James Health=](http://www.ada.gov/st_james_sa.htm)
http://www.ada.gov/st_james_sa.htm

Great Lakes In Focus

ODEP and LEAD Center's Latest Report Highlights Employee Retention and Return-to-Work Best Practices

As the workforce becomes increasingly diverse, companies are seeking additional strategies to maintain the health and productivity of their skilled workers, while also accommodating workers who may acquire disabilities. In fact, many companies have already created structures and practices that support employees with disabilities, illnesses and injuries so that they can successfully remain in their jobs.

The U.S. Department of Labor's Office of Disability Employment Policy (ODEP) and the LEAD Center have recently released the report, "Best Practices in Employee Retention and Return-to-Work: An In-Depth Look Inside an Exemplary American Corporation." Highlighting effective retention and return-to-work policies and practices gleaned from ODEP and LEAD's professional analysis of a large corporation, the report offers suggestions and identifies replicable best practices that benefit both employers and employees.

Read the ODEP Report [Here](#)

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

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The Docket

Arthur v American Showa, Inc, SDOhio, November 4, 2014,

A federal district court in Ohio granted summary judgment to an employer ruling that the Americans with Disabilities Act (ADA) did not require the employer to bump an employee in order to accommodate an employee with lifting restrictions. The Court ruled that the employee had failed to show that the employer had failed to accommodate him. The employee's position had been eliminated as part of companywide reorganization. The employee's discrimination claim also failed because there was no evidence that the sole decision maker who eliminated his job knew of his back condition or restrictions, nor evidence that the reorganization was carried out in a discriminatory manner.

From the ADA Expert

Question:Q. I have an employee that provides in-home nursing services to clients. He recently called in sick two days in a row. On the second day we were contacted by his daughter stating that her father had been hospitalized because of his bi-polar disorder and problems with the medications he had been taking. The daughter stated that her father had told her that his job duties had changed recently and he was struggling with this but his job duties haven't changed. The employee is expected to be at work his next scheduled day. Can we ask any medical questions when the employee returns?

Answer:

The ADA prohibits covered employers from discriminating on the basis of disability against qualified individuals with disabilities in all employment practices. A covered employer is one with 15 or more full or part-time employees. An employer may hire, fire, or promote the most qualified individual he/she chooses. The ADA prohibits that covered employer from making the decision on whom to hire, fire, or promote on the basis of disability.

There are limitations on when an employer can ask medical questions or require examinations. The ADA states that a covered employer shall not require a medical examination and shall not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature and severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

An employer can ask medical questions in situations like this if the information learned is reliable and if the employer has a reasonable belief that the employee's ability to perform essential job functions would be impaired by a medical condition. Also, if the employer has a reasonable belief that the employee would pose a direct threat due to a medical condition the employer may make disability-related inquiries or require a medical examination.

Factors that an employer might consider in assessing whether information learned from another person is sufficient to justify asking disability-related questions or requiring a medical examination of an employee include:

- The relationship of the person providing the information about the employee

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- The seriousness of the medical condition at issue
- The possible motivation of the person providing the information;
- How the person learned the information (e.g., directly from the employee whose medical condition is in question or from someone else)
- Other evidence that the employer has that bears on the reliability of the information provided.

For additional information please contact the DBTAC: Great Lakes ADA Center at (800) 949-4232 (V/TTY) or by completing the online [Contact Us form](#)

Resources

[Read about "Enforcement Guidance on Disability-Related Inquiries and Medical Examinations"](http://www.eeoc.gov/policy/docs/guidance-inquiries.html) at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>

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