



Effective Communication Accommodating People in Individualized Ways – Part 1

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The Americans with Disabilities Act (ADA) addresses communication access in a variety of ways. Individuals with communication disabilities (such as blindness or deafness) are protected by the ADA, and ensuring access often necessitates a proactive approach.

Title II (which covers state and local governments) and Title III (which covers many private businesses) may require the provision of “auxiliary aids and services” (such as interpreter services, assistive listening devices, or large print materials) to ensure that program participants and customers are included in activities and services.

Additionally, the ADA’s new construction and alterations standards for buildings and facilities may include several provisions related to structural communication elements, such as emergency alarm systems, signage, telephones, and detectable warning surfaces.

Standards related to vehicles and transportation services also address signs, information, and stop announcements on rail and bus routes.

While “effective communication” is a term used in Titles II and III, Title I (employment provisions) includes requirements that are similar in nature. Title I requires covered employers to provide “reasonable accommodations” to applicants and employees with disabilities. Accommodations for workers with communication disabilities might range from the addition of Braille labels or signs in the workplace for an individual who is blind to hiring a sign language interpreter for an individual who is deaf to attend a staff training session.

Communication Basics

In-person communication can range from a simple interaction between a customer and a merchant to an in-depth meeting between a client and a lawyer or a conference with hundreds of attendees and dozens of speakers. The needs of people with communication disabilities will vary greatly depending on the situation, the length and complexity of the communication that takes place, the methods typically used to communicate in the situation (speaking, writing, drawing, providing written materials, showing slides, etc.) and the individual’s disability and preferences.

A person who is deaf will need aids and/or services to access audible information. He may need printed materials, notes, or interpreter or captioning services to get the information that others hear. The same individual will use different tools

ADA IN FOCUS is published three times yearly by the DBTAC: Mid-Atlantic ADA Center. It is posted to the web on the “Publications” page at www.adainfo.org. It is also available by request in large print, Braille, audio CD, and computer disk.



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New Training Manager

The DBTAC staff is pleased to announce that we have hired a new training manager. Judi Berland comes to the DBTAC: Mid-Atlantic ADA Center with many years of experience both in the fields of Rehabilitation and Education. Judi has worked as a state rehabilitation counselor and placement specialist for the DC Rehabilitation Services Administration. She was the Placement Coordinator for the Adolescent Employment Readiness Center (AERC) at Children's National Medical Center where most of her clients were living with HIV/AIDS. In addition Judi was the Director of the Projects with Industry program at The Lt. Joseph P. Kennedy Institute.

We are excited to have Judi as part of the DBTAC team, and invite you to contact her directly to discuss future trainings for your organization. You may reach Judi at 301-217-0124 V/TTY or 1-800-949-4232 V/TTY, or by e-mail at adatrain@transcen.org.

ADA Update

10/9/2009
 Location: Baltimore, MD
www.adainfo.org/training

Presented by the DBTAC Mid-Atlantic ADA Center. This year's ADA Update will include our standard panel of federal agencies as well as breakout sessions on "hot" topics. Information on the new ADA Amendments Act will also be included! Join us for this informative and fun conference - a great chance to network with others concerned with the ADA! A pre-conference session on the ADA Intermediate will also be offered. To register for this training please go to www.adainfo.org.

An International Perspective of Accessible Technology

9/14/2009
 ADA Audio Conference Series
www.ada-audio.org

An increasing number of countries around the world have adopted accessible web design laws and policies. Because of the historic number of signatories to the United Nations Convention on Rights of Persons with Disabilities, it is expected that more attention will be paid to this issue as well as to the paradigm shift underway.

Best Practices in Accommodating Students with Autism Spectrum Disorders, Intellectual Disability

9/15/2009
 ADA Audio Conference Series
www.ada-audio.org

Educational entities are reporting increased enrollment of individuals with a variety of disabilities that they have not traditionally served. Questions and concerns regarding the type of accommodations needed and how the campus environment needs to respond to ensure that qualified students have an equal opportunity to participate are common on the various post secondary education list serves and blogs. Join the speakers for this session to learn more about how some institutions have implemented programs that have effectively been able to accommodate and integrate these students.

Pretext Cases: Sound Business Decision or Discriminatory Action?

9/22/2009
 ADA Audio Conference Series
www.ada-audio.org/Webinar/ADALegal/

In many ADA cases, employees assert disability discrimination while employers claim their actions were based on a legitimate business decisions. This session will review the U.S. Supreme Court's rulings on what constitutes pretext of discrimination and discuss subsequent ADA cases addressing this issue.

Raising the Bar

11/5/2009 - 11/6/2009
 Turf Valley Resort, Ellicott City, Maryland
www.winformd.org

Mark Your Calendars for one of the Mid-Atlantic's premier workforce development conferences! Join your colleagues from One-Stop career centers, community colleges, public schools, disability services organizations, ex-offender programs, adult education, DLLR, GWIB, DHR, DJS, DPSC, US DOL, economic development, local departments of Social Services, outplacement firms, and other organizations in the business of helping connect people to jobs.

For information on these and other ADA and disability-related training events go to www.adainfo.org/training

VACIL Decision Results in Hospitality Training

The Virginia Association of Centers for Independent Living (VACIL) made a simple but very important decision in 2009. VACIL members agreed that they would only participate in or schedule conferences, trainings or events at sites that met or exceeded ADA requirements for accessibility. This decision prompted the group to request training from the Virginia ADA Coalition on how to complete a simple ADA survey on a meeting space or hotel.

On May 20th and 21st, 33 staff from Centers for Independent Living throughout Virginia met locally and remotely in Charlottesville, Virginia. They became acquainted with a simple ADA accessibility survey and the basic ADA requirements for hotels. The attendees learned how to measure, where to measure and what tools to use to measure access. They either conducted practice surveys on varying elements at a local hotel in Charlottesville or in their own community.

Attendees also participated in a train-the-trainer session of the DBTAC Hospitality Initiative. This initiative is aimed at providing information to front line hotel staff on how to offer excellent customer service to their guests with disabilities. The materials and resources supporting this initiative may be found on the DBTAC website at www.adainfo.org/hospitality.

After the exercise, attendees discussed their findings, shared problems they had and identified solutions. All attendees received a Starette measuring tape from Eastlake, Derry and Associates as a prize for completing the training. The tape is designed to be used when doing ADA surveying. Attendees were challenged to complete one hospitality training at a hotel in their community within 6 months.

Employment Training Focuses on Psychiatric Disabilities

On July 17, 2009, HR professionals, State and Local Government personnel, advocates, and service providers who offer employment services for people with disabilities attended a training designed to educate the participants on how to successfully include people with psychiatric disabilities as part of the candidate pool for their recruitment efforts and how to accommodate people with psychiatric disabilities in the workplace.

Co-sponsored by the West Virginia ADA Coalition, the WV Mental Health Consumers Association and WV Advocates, this interactive training was attended by over 60 individuals. It provided the participants with the opportunity to learn more about practical ways in which employers may engage in the process of candidate selection that is all inclusive. They also learned how to engage in an interactive accommodation process with employees and potential employees.

For more information about this and other trainings conducted by the DBTAC, please contact Judi Berland at 301-217-0124 V/TTY or 1-800-949-4232 V/TTY, or by email at adatrainig@transcen.org.

State ADA Coalitions

Maryland
(800)949-4232 V/TTY
adainfo@transcen.org

Washington, D.C.
(202)388-0033 or (202)388-0277 TTY
cfleming@dccil.org

Delaware
(302)335-5626 V — Carpent487@aol.com
(302)764-8713 V — MTurner1@ucpde.org

West Virginia
(800)946-9471 V/TTY
ADAcoalition@msn.com

Virginia
(757)461-8007 V or (757)461-7527 TTY
kgonzalez@endependence.org

Pennsylvania
(570)327-9070 V or (570)327-5254 TTY
communityorganizer@cilncp.org

State Assistive Technology Programs

Maryland
(800)832-4827 V or (866)881-7488 TTY
www.mdap.org

Washington, D.C.
(202)547-0198 V or (202)547-2657 TTY
www.atpdc.org

Delaware
(800)870-3284 V/TTY
www.dati.org

West Virginia
(800)841-8436 V or (800)518-1448 TTY
www.cedwvu.org/programs/wvats

Virginia
(800)552-5019 V/TTY
www.vats.org

Pennsylvania
(800)204-7428 V or (866)268-0579 TTY
<http://disabilities.temple.edu/piat/>

Medical Health Group to Pay \$125,000 for Disability Bias against Worker with Cancer

“EEOC Said Employer Fired Woman Battling Breast Cancer When She Attempted to Return to Work .”

The U.S. District Court for the District of Maryland has settled a discrimination lawsuit case with a Maryland based medical practice. The case was filed by the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC had charged that Medical Health Group, Inc., refused to return an employee to work who had recovered from breast cancer surgery.

Although the employee told Medical Health Group, Inc. that she intended to work without interruption while undergoing her remaining chemotherapy sessions and radiation therapy for her cancer, the employer cited examples of people whose cancer treatments made them too sick to work. She was given a termination letter that stated she was being fired because she was “currently unable to return to work on a full-time basis. Due to the seriousness of her illness, and extended nature of the treatment required ...we must exercise our option to permanently fill your position.”

The ADA prohibits employers from making employment decisions based on assumptions and misinformation about a person’s medical condition. “A woman who is bravely battling breast cancer has enough of a challenge without having to lose her job because of unlawful discrimination,” said EEOC Acting Chairman Stuart J. Ishimaru. “The EEOC will stand up for the victims of this sort of bias.”

The case is Civil Action No. 1:09-cv-00803-WDQ (find the article online at <http://www.eeoc.gov/press/7-22-09.html>)

Offering Help Doesn’t Mean You Regard Applicant as Disabled

The 3rd Circuit Court of Appeals (covering Pennsylvania, Delaware, New Jersey, and the Virgin Island) in the case of *Toscano v. Warren County* found that simply offering help is not disability discrimination.

Applicants are protected from discrimination based on disability, and they are entitled to reasonable accommodations during the application process. Further, applicants are not required to disclose their disabilities if they do not want to. In order to assure that they do not violate the ADA, employers should not discuss apparent disabilities that have not been disclosed by the applicant. That doesn’t mean, however, that you will be in violation of the law if you do something as simple as offering assistance to someone who is having trouble navigating stairs or getting on the elevator.

The decision stemmed from a lawsuit filed by Louis Toscano who interviewed with Warren County in New Jersey. The applicant was offered assistance by several employees as he approached the elevator. Toscano didn’t get the job and sued, alleging the county had regarded him as disabled. The District Court concluded that Toscano had not come forward with evidence from which a jury could determine he is disabled, nor did he demonstrate through proper evidence that he has any impairments that limit one or more major life activities, that he has a record of impairment under the ADA or that he is “regarded as” having such an impairment.

The case is *Toscano v. Warren County* No. 08-3993, 3rd Cir., 2009 (find the decision online at <http://vlex.com/vid/louis-toscano-warren-county-dept-huma-57279490>).

The EEOC has issued Questions and Answers About Cancer in the Workplace and the Americans with Disabilities Act (ADA). The publication explains how the ADA might apply to job applicants and employees who have or had cancer. This document is available on the EEOC’s web site at <http://www.eeoc.gov/facts/cancer.html>.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the Commission is available on its web site at www.eeoc.gov.

New Ten-Digit Numbering and Emergency Call Handling Procedures for Internet-Based Telecommunications Relay Services

Beginning on December 31, 2008, persons with hearing and speech disabilities using Video Relay Service (VRS) or Internet Protocol Relay (IP Relay) - two forms of Internet-based Telecommunications Relay Service (TRS) - will be able to obtain ten-digit telephone numbers. This ten-digit number requirement was adopted by the Federal Communications Commission (FCC) in conjunction with 911 call handling requirements for VRS and IP-Relay providers.

TRS calls made through the traditional telephone network will automatically pass along to the called party signals that help identify the caller's location. As a result, relay providers will know the caller's location, and can therefore route the call to the appropriate emergency personnel to respond. This routing is not currently possible with the Internet-based forms of TRS, because calls do not pass along location information. The FCC has now adopted rules to address this situation by requiring VRS and IP Relay providers to get location information from relay users obtaining ten-digit telephone numbers. The new rules ensure that VRS and IP Relay users are provided with 911 service that is comparable to the 911 service provided to traditional telephone users.

<http://www.fcc.gov/cgb/consumerfacts/trstendigit.html>

New monthly data series on the employment status of people with a disability

In June 2008, questions were added to the Current Population Survey (CPS) to identify persons with a disability in the civilian non-institutional population age 16 and older. The addition of these questions allowed the U.S. Bureau of Labor Statistics (BLS) to begin releasing monthly labor force data from the CPS for persons with a disability.

The collection of these data is sponsored by the Department of Labor's Office of Disability Employment Policy. Publication of CPS disability data began in February 2009 with the issuance of labor force data for January 2009. These materials provide information on comparisons with other data sources, variability of the data, and the types of data available. Additionally, links to historical data and alternate formats maybe found on the BLS website.

In July 2009, the unemployment rate of persons with a disability was 15.1 percent, compared with 9.5 percent for persons with no disability, not seasonally adjusted. The estimates for persons with disabilities have not been seasonally adjusted due to the fact that these data have been collected for only a few months. Typically, several years worth of monthly estimates are required before seasonally adjusted estimates can be provided.

For more information about the new disability data, contact the Division of Labor Force Statistics at (202)691-6378 .

<http://data.bls.gov/cgi-bin/forms/cps?cps/cpsdisability.htm>

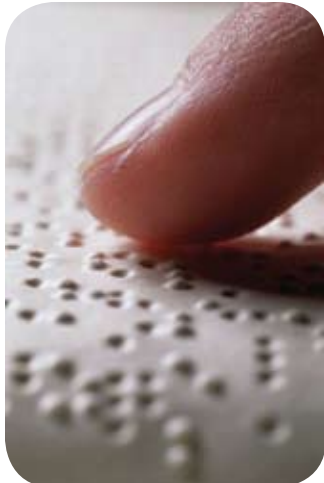


Disability Law Handbook Available

The DBTAC Southwest ADA Center, a program of ILRU at TIRR Memorial Hermann, announces the publication of The Disability Law Handbook, a 50-page guide to the basics of the Americans with Disabilities Act and other disability related laws.

Written in an FAQ format, The Disability Law Handbook answers questions about the Americans with Disabilities Act, the ADA Amendments Act, the Rehabilitation Act, Social Security, the Air Carrier Access Act, the Individuals with Disabilities Education Act, the Civil Rights of Institutionalized Persons Act, and the Fair Housing Act Amendments.

Individual copies of The Disability Law Handbook are available at no charge at www.swdbtac.org/html/publications/dlh/index.html, by calling DBTAC: Mid-Atlantic ADA Center at 1-800-949-4232 V/TTY or by email at adainfo@transcen.org.



and methods in different situations. While he may need interpreter services to attend a class, he may only need to exchange a few quick notes with a clerk in order to register for the class.

A person who is blind will need access to information that is presented visually. She may need staff to read labels or menus, describe graphic elements,

or provide directions or assistance to locate rooms, spaces, or items. She may need materials in audio formats or Braille. Again, tools and methods will vary. The receptionist at the conference center can easily direct her or lead her to the meeting room where her workshop is taking place, but she may need Braille materials to fully participate in the session.

People who are hard of hearing will often need very different aids or services than people who are deaf (despite the fact that both of their disabilities affect their hearing). Similarly, individuals who have low vision may have different needs than individuals who

are blind. People who are hard of hearing or have low vision often request aids or services that enhance their ability to hear or see.

For example, a person who has low vision may need large print materials, but the individual is still using her sense of sight to read, rather than touch (as with Braille) or hearing (to listen to an audio recording, for example). A person who is hard of hearing may use an assistive listening device to *amplify* sounds, rather than *replacing* sounds with an alternative (such as captions or written notes).

These examples illustrate why it is important to accommodate people in individualized ways. For many types of events, providing aids and services on an as-needed basis is an effective approach. Letting people know how to request accommodations, and *by what deadline*, is critical.



Web Sites

Internet web sites are increasingly used by both government agencies and private businesses as an efficient tool for communication, information dissemination, and service provision. Organizations use the Internet (as well as intranet and extranet systems) to inform and interact with employees as well as customers.

Like brick and mortar buildings, internet sites can be designed to be accessible to people with disabilities, many of whom use assistive technologies. Existing sites can also be updated to include accessible features, many of which are relatively easy to add. Captions can be added to multi-media clips to provide access to the audio portion, and tags and descriptions can be added that allow screen reading software to identify graphic elements for users who are blind or have low vision.

In part 2 of this article (appearing in the next issue) we will continue with information about Communication Access and the Built Environment, Communication and Disaster Planning, and a collection of Resources and Publications.

Accessible Technology (AT) Helps Employers Hire, Retain Workers

Accessible Technology for All — www.AccessibleTech.org

The Accessible Technology Web Site is live and ready for public use. The website was developed as a national project by the DBTACs. Its purpose is to build a partnership between the disability and business communities and to promote full and unrestricted participation in society for persons with disabilities through the promotion of technology that is accessible to all.

The website provides users with resource information on accessible technology as well as assistive technology through a variety of articles covering such topics as E-learning, legal issues, operation systems, policy issues, telecommunications products & general information, just to highlight a few. The disability and business communities may benefit from information this new website provides.

As stated on the website Assistive Technology is *technology used by individuals with disabilities in order to “perform or improve functions that might otherwise be difficult or impossible”*.

In addition to the general information, the website offers an excellent Q&A section covering topics of interest on both assistive and accessible technology.

Technology makes access to jobs, goods, and services possible for all people including those with disabilities. www.AccessibleTech.org



Assistive Technology @ Work

Tools to Accommodate Employees with Disabilities

This is an introductory level training, designed to familiarize employers with assistive technology (AT) services, equipment, and devices that can help remove workplace barriers, enhance productivity, and reduce employee turnover.

These interactive sessions will give employers an opportunity to see and use an assortment of low- and mid-tech devices. A variety of activities, such as the exercise “Doohickeys, Thingamabobs, and Whatchamacallits”, will get participants thinking creatively.

Employers will also learn about resources that are available to help them identify and acquire appropriate technologies and related services, as well as other types of accommodations for workers with disabilities, or persons with needs relating to aging. Sessions can be customized to meet the needs of specific groups. More advanced topics or specific areas of interest can be addressed.

To find out more about the AT@Work training program, contact the Assistive Technology Program in your state refer to page 3 of this newsletter for location and contact information.



No Internet Access?

If you are not able to obtain online publications,
call the DBTAC: Mid-Atlantic ADA Center,
1-800-949-4232 V/TTY.
We will be happy to assist you!

Effective Interaction: Communicating With and About People with Disabilities in the Workplace

<http://www.dol.gov/odep/pubs/fact/effectiveinteraction.htm>
U.S. Department of Labor Office of Disability Employment Policy

Effective Communication in Parks and Recreation

<http://www.ncaonline.org/index.php?q=node/753>
National Center on Accessibility, Indiana University-Bloomington

Guidelines for Reporting and Writing on People with Disabilities

<http://www.lsi.ku.edu/~lsi/aboutus/guidelines.shtml>
The Life Span Institute at the University of Kansas

Disability Law Lowdown Podcast - Requesting an Interpreter (Parts 1 & 2)

<http://asl.disabilitylawlowdown.com/shownotes/DLLVpod02b.php>
Southwest, Great Lakes and Rocky Mountain DBTACs

Communications Category - ADA Document Collection

http://www.adata.org/adaportal/Communication/Communications_TOC.html
DBTAC National Network of ADA Centers

Technology Access Program at Gallaudet University

<http://tap.gallaudet.edu/>
Gallaudet University



ADA In Focus is intended for use by individuals, state and local governments, businesses, legal entities, and others interested in developments in the Americans with Disabilities Act. This publication is intended solely as an informal guidance and should not be construed as legally binding. ADA In Focus does not serve as determination of the legal rights or responsibilities under the ADA for any individual, business or entity.



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