



Fall 2017 ADA National Conference
The official e-Newsletter of the National Association of ADA Coordinators
Serving the ADA Coordination and 504 Compliance Community Since 1992
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September - October 2017

2017 Fall ADA Conference

Celebrating the Association's 25th Anniversary
Co-host – City of San Diego, California

"A Steady Hand in Uncertain Times"

October 23-26, 2017
San Diego, California

For 25 years the National Association of ADA Coordinators has brought ADA coordinators together, providing a forum for the most up-to-date information on ADA issues and enforcement. Through different administrations, Republican and Democratic, from George H.W. Bush to Bill Clinton to George W. Bush to Barack Obama, NAADAC has been your guide to the ADA.

Now, as it celebrates its silver anniversary, NAADAC continues its role.

The Administration of Donald Trump is working to fill over 4,000 positions in the Federal government. So far rumors and uncertainty abound about how it will fulfill its ADA responsibilities. Will there be a new approach to ADA enforcement? Will there be new regulations or changes to existing rules? Amid the uncertainty and the tumult, you can turn to NAADAC and its faculty of nationally recognized experts for practical, understandable guidance. So, join us for our Fall Conference in San Diego in October, and you'll find that NAADAC will be ***"A Steady Hand in Uncertain Times."***

John Wodatch, Association President

Current case law, best practices, policy examples, and reasonable solutions to trending and complex ADA situations. Updated Free ADA library on USB drive at conference.
The Spring 2017 conference was rated outstanding by the participants' on their evaluations.

"NAADAC has provided the most comprehensive and informative sessions in my 25 years of professional development experiences. I will continue to attend . . . as well as refer NAADAC as the best resource for ADA training! +504 + 508 etc." **James W.; Major University, Texas**

"This is the gold standard for ADA Conferences." **Donna K.; Major University - Connecticut**

"This conference has the BEST presenters of all the conferences I attend regularly, really a dream team."
Marji M.; Major Airline - Houston, Texas

The Fall 2017 National Conference Scheduled Faculty includes:

*ADA attorneys, ADA architects, ADA Coordinators and
Section 504 Compliance Officers, ADA Web Experts, and Medical Professionals*

Confirmed Conference Faculty for the tracks include:

Keynotes

Anne Raish, J.D., Acting Chief, Disability Rights Section, US DOJ
Christopher Kuczynski, Assistant Legal Counsel and ADA/GINA Policy Director, US EEOC

Access, Services, and Design Track

John Wodatch, J.D.; Jim Bostrom; Irene Bowen, J.D.; Joe Dolson (Web)
Jim Esselman, J.D. (DOT); Dean Perkins, R.A.; Jim Terry, AIA; Rachel M. Weisberg, J.D.

Employment Track

Christopher Kuczynski, J.D., LL.M. (EEOC); Mary Jo O'Neill, J.D. (EEOC); Brian Nelson, J.D.
Nicole St. Germain (EEOC); Rosa Viramontes (EEOC)

Higher Education Track

Paul Grossman, J.D.; Melissa Frost, J.D.; Howard Kallem, J.D., Jim Long, J.D.

*Other conference sessions planned on **Law Enforcement**, **Transportation and Transit**,
Emergency Preparedness, and **Web Site Accessibility/Design Issues***

See full conference agenda, and faculty bios on Association web site.

Web Site - www.adacoordinators.org

CONFERENCE EVENING EVENTS FOR YOUR FUN AND PLEASURE

There is an **Association President's Reception** on **Tuesday evening** with snacks and refreshments. This is an opportunity to meet the speakers and our Board of Directors, and to network with new ADA friends in a relaxed atmosphere.

On **Wednesday evening** is our "**Association's Got Talent**" event. Back by popular demand from the past eight conferences is the **Karaoke Challenge**. Come join the fun after an informative and busy day at the conference. Be entertained by our great singers. Donated cash prizes will be awarded to three individuals, duos, and/or groups. Free refreshments available - soft drinks, beer, and wine.

CONFERENCE LOCATION AND HOTEL

The conference is being held at the ***Sheraton Mission Valley San Diego, 1433 Camino Del Rio South, San Diego, CA 92108***. A complimentary shuttle provided from/to San Diego International Airport and within three miles of the hotel. Hotel day-time conference self-parking and guestroom Internet are complimentary. ***Participant is responsible for making own lodging reservation. Credit card guarantee is required.*** The Association has negotiated a special conference rate from three days before/after the conference at a per room rate of \$158.00 per night, plus taxes (single/double) if reserved by **9/28/17**, provided room block has not been sold out. To make lodging reservations call the hotel 619-260-0111 and mention you are attending the National Association of ADA Coordinators conference.

The hotel is also within walking distance of two shopping malls and a station for the San Diego Trolley System.

INFORMATION FOR NON-ASSOCIATES

If you are not an Associate, now is the time to become an Individual, Professional (P.A.), or Organizational Associate. More detailed information is available on our web site at www.adacoordinators.org.

If you join when registering for this conference you can register at Associate registration rate on the conference registration form.

Associates received an additional email discount offer, worth at least \$250, off this 2017 Fall Conference Associate registration rate.

The Associates' Version of this Newsletter contains an additional **19** emailed pages on ADA case law and other information.

UPDATE OF OUR PROFESSIONAL ASSOCIATES (P.A.) PROGRAM

We recognized 4 new P.A.s at the Spring 2017 conference and another 6 completed their P.A. requirements at the Spring conference. There are over 155 Associates in various phases of completing the PA program.

See our website at: www.adacoordinators.org for more information on the Association's Professional Associate program.

Registration closes 10/6/2017
Fall 2017 ADA National conference
October 23-26, 2017 San Diego, CA

ADA ARTICLES OF INTEREST

(Articles for information purposes only and are not to be considered as legal advice)

Fall ADA Conference, October 23-26, 2017, to cover these and other ADA important ADA issues.

COURT RULES FEDERAL LAW DOES NOT TRUMP EMPLOYEE PROTECTIONS UNDER STATE MEDICAL MARIJUANA LAW

If drug and alcohol-testing policies take a zero tolerance approach to medical marijuana because the use, distribution, or possession of marijuana is unlawful under federal law, a recent federal court decision interpreting state law could be the wave of the future.

In August, a Connecticut federal district court held that various federal laws prohibiting use and sale of marijuana do not preempt the State of Connecticut's Palliative Use of Marijuana Act (PUMA), which protects employees and job applicants from employment discrimination based on medical marijuana use permitted under state law. The essence of the decision is that federal law **does not** prohibit employment of illegal drug users.

The plaintiff claimed she was diagnosed with post-traumatic stress disorder (PTSD) and that as a result, her doctors recommended she use medical marijuana. She registered with the Connecticut Department of Consumer Protection, and following registration, began using Marinol, a synthetic form of marijuana.

The defendant (employer) recruited the plaintiff in 2016, extending an employment offer contingent on plaintiff's passing the pre-employment drug test. The plaintiff notified the employer that she was a registered medical marijuana user who took Marinol, but only at night before bed so she would not be impaired at work. The plaintiff then took the pre-employment drug test.

The day before the plaintiff was scheduled to start work, the drug-testing company informed the parties that the plaintiff had tested positive for marijuana. The same day, the defendant rescinded the plaintiff's job offer because of the failed drug test.

The plaintiff sued, alleging the defendant violated Connecticut PUMA's anti-discrimination provision. The defendant moved to dismiss, primarily asserting plaintiff's PUMA claim was preempted by three federal statutes: Controlled Substances Act (CSA), ADA, Food, Drug, and Cosmetic Act (FDCA).

The court found no federal preemption of PUMA. The court first analyzed the CSA, the federal statute criminalizing marijuana use. While the court recognized that PUMA affirmatively authorizes the very conduct the CSA expressly prohibits this conflict was not enough to support a conclusion that PUMA is an obstacle to CSA's goals. While the court recognized that the CSA prohibits marijuana use, the court noted that the CSA does not prohibit employing marijuana users, nor does it seek to regulate employment practices. Therefore, the court concluded that the CSA did not prevent the plaintiff from making a claim based on PUMA's prohibition on "an employer . . . taking adverse action against an employee on the basis of the employee's otherwise state-authorized medicinal use of marijuana."

The court reached the same conclusion under the ADA. The court stressed that the ADA's primary purpose is to protect employees from discrimination, a purpose shared under PUMA's anti-discrimination provision.

The court then explained that while the ADA explicitly allows employers to prohibit illegal drug use at the workplace, it does not authorize employers to take adverse employment action based on illegal drug use outside of the workplace. The court found that the ADA does not preempt PUMA's medical marijuana anti-discrimination provision. The court also specifically rejected the argument that employers can universally use a negative drug-test result **as a qualification standard** for employment.

The court concluded the FDCA did not preempt PUMA. The court did recognize that Connecticut's PUMA permits drug use that the Food and Drug Administration has not approved. The court once again adopted the view of the federal law, finding the FDCA does not regulate employment. Therefore, PUMA's anti-discrimination provision did not conflict with or pose an obstacle to FDCA goals.

The court then held, on an issue of first impression, that an implied private right of action exists under the PUMA's anti-discrimination prohibition (PUMA does not contain an explicit private cause of action) for an employer's adverse employment actions taken based on rights protected by PUMA. The court reasoned that without a private cause of action, PUMA, "would have no practical effect, because the law does not provide for any other enforcement mechanism."

The court's decision was somewhat odd because Marinol is lawful under the CSA. It is a - CSA Schedule III - drug that can be prescribed and used without violating the CSA. Therefore, the very conduct forming the basis for plaintiff's state-law discrimination claim was potentially also actionable under the ADA, but neither the parties nor the court addressed this issue. For this reason alone the decision may be of limited value in future cases where an applicant or employee's drug use is in fact prohibited by federal law.

This case is significant because it is the first decision to conclude that marijuana's unlawful status under federal law does not bar a discrimination claim based on conduct protected by state medical marijuana laws. The decision concerns Connecticut's PUMA, its decision may have far-reaching consequences that can significantly change the human resources arena for many employers. This includes employers that operate in the growing number of states that provide affirmative employment protections for medical marijuana users.

(Many years ago, the United States Supreme Court ruled that both medical marijuana growers and users could be prosecuted under the CSA. Additionally, seven years ago, the Oregon Supreme Court expressly held that the CSA preempts the Oregon Medical Marijuana Act.)

The court's decision is not binding on other courts, but an appeal to the United States Court of Appeals for the Second Circuit is likely. It bears emphasis that the Connecticut case is the second important decision to assess the employment impact of a state law permitting the use of medical marijuana. The Massachusetts Supreme Judicial Court determined that an employer has obligations to accommodate lawful medical marijuana users under Massachusetts disability discrimination laws. (*Barbuto v. Advantage Sales & Marketing, LLC*, SJC-12226).

7TH CIRCUIT REVERSES JUDGMENT FOR DEAF LITIGANT

A federal court ruling in favor of a deaf litigant who was denied a court-provided sign language interpreter for mediation in his child custody case was reversed on appeal recently.

The 7th Circuit Court of Appeals reversed the judgment and award of \$10,380 in damages in favor of Plaintiff. The panel remanded his federal civil rights case brought under the ADA with instructions to dismiss the suit, though Plaintiff may file an action in state court. (*Dustin King v. Marion Circuit Court*, 16-3726)

“The district court held that Indiana does not enjoy sovereign immunity because this case falls within the abrogation of (state sovereign) immunity sustained in [U. S, Supreme Court case] *Tennessee v. Lane*, 541 U.S. 509 (2004). We disagree with that conclusion,” the Circuit Judge wrote for the panel. In *Lane*, a litigant who used a wheelchair couldn’t reach a second-floor courtroom, which the court held violated his right to fundamental access to the court.

The Circuit Judge wrote that no such violation occurred in this Plaintiff case, when he requested and was denied a court-appointed American Sign Language interpreter in Marion County’s Modest Means Mediation Program. The Plaintiff ultimately participated in mediation with the interpretative assistance of a relative and received a satisfactory outcome. Further, the Circuit Judge wrote that local court rules provide Marion Superior judges the discretion to determine when mediation is appropriate.

“[Plaintiff] does not contend that the Marion Circuit Court treats deaf litigants unfairly or that deaf litigants encounter any barrier to litigation on a par with litigants who can hear. The Circuit Court’s invitation to litigate therefore afforded [Plaintiff] full access to court,” the Circuit Judge wrote.

The District Judge had ruled in Plaintiff’s favor in May 2016, holding that the denial of a court-appointed interpreter for Plaintiff was discrimination under Title II of the ADA. This Plaintiff suit was joined by the U.S. Justice Department and the American Civil Liberties Union of Indiana. The federal government argued in a brief that the Marion Superior Courts were deliberately indifferent to King’s disability.

The 7th Circuit saw otherwise. “The United States has not explained how awarding damages to [Plaintiff] could ward off future unconstitutional conduct. As far as we know (and as far as Plaintiff), the Circuit Court does not wield its power to order mediation as part of a scheme to bar the disabled from obtaining legal redress. It does not routinely demand mediation as a prerequisite to adjudication, knowing that the parties’ disabilities will block mediation and so block litigation too,” the Circuit Judge wrote. “Nor does Plaintiff contend that the Circuit Court plans to implement such a strategy in the future. What happened to him points to just the opposite conclusion. Our sample of one indicates that, when a disabled person might have trouble mediating, the Marion Circuit Court immediately offers full adjudication. We do not have any reason to believe that a single disabled person in Marion County will ever be denied access to court because of the limits on the subsidies provided by the (Modest Means Mediation) Plan, or because of the mediation process as a whole. And in the absence of any other evidence, we cannot say that allowing [Plaintiff’s] damages action would plausibly function as a prophylactic against future constitutional violations.”

ADA AND TELECOMMUTING -- HOT TOPIC

In July, EEOC filed suit against a home healthcare company to “correct unlawful employment practices on the basis of disability.” In the complaint, the EEOC alleges that employer refused to provide employee, a “qualified individual with a disability,” with a reasonable accommodation, and discharged her in violation of the ADA. (*EEOC v. Advanced Home Care, Inc., No. 1:17-cv-00646 (M.D.N.C. July 12, 2017)*)

According to the EEOC, employee was a case manager for patients requiring home services. As a case manager, the employee was required to spend part of her day on telephone calls. In 2015, employee began to experience frequent asthma attacks and flare-ups of bronchitis. After collapsing at work after a heavy bout of coughing, she was hospitalized where she was diagnosed with chronic bronchitis and COPD.

The complaint alleges that as a “consequence of asthma, bronchitis, and COPD, employee experiences wheezing, severe bouts of coughing, and asthma attacks,” and that employee’s physical impairments “substantially limit her in the major life activity of breathing. . . and constitute a disability under the ADA.”

The EEOC alleges that scents and odors aggravate employee's COPD and asthma, that she worked in a cubicle in close proximity to hundreds of other employees, and that she was therefore subjected to these types of irritants, including the smell of smoke on other employees' clothes.

The EEOC claims that employee's supervisor "ignored [employee's] repeated requests to telework" and that teleworking would have allowed employee to be away from actual and potential respiratory irritants. The EEOC also claims that employee's supervisor told her she would be terminated if she could not return to work without restrictions.

The EEOC complaint alleges that employee could have performed the essential functions of her position with the reasonable accommodation of telework. The EEOC also claims that as a consequence of employee's disability, employee had difficulty talking continuously for extended periods of time, and if employee had been allowed to telework, employee would not have been required to take inbound calls, and, therefore, would have spent less time on the phone.

Employers should note that this situation is somewhat unusual but that telecommuting has been ***an issue on the EEOC's radar for the last several months*** (i.e., is working from home a reasonable accommodation?). The important issue is the proper handling and response to employee accommodation requests. Company policies and procedures as well as internal manager training for these sorts of requests and responses should be well set out and diligently followed.

Person Gets 60 Years for Extorting Businesses

In August, a person who extorted money from Riverside County, California, businesses by threatening to sue them for violating the ADA was sentenced.

Prosecutors say the person approached as many as 1,000 businesses, posed as an advocate for the disabled and threatened to sue over minor violations of federal and state disabled access laws unless he was paid off. Authorities say he collected about \$140,000.

The person pleaded guilty last fall to 143 counts of extortion, attempted extortion and grand theft, and was sentenced to 20 years in jail. He also was given 40 years of mandatory supervision and was ordered to pay \$58,000 in restitution.

Employee Cannot Bypass Title VII, ADA Regulatory Scheme

Plaintiff-employees cannot pursue a claim under 42 U.S.C. § 1983 (Section 1983) for rights created under Title VII of the Civil Rights Act and the Americans with Disabilities Act, the federal appeals court in Philadelphia has held in a case of first impression for the Third Circuit. The Court joins seven other circuits to have considered the issue and came to the same conclusion. (***Williams v. Pennsylvania Human Relations Commission, et al., No. 16-4383 (3d Cir. Aug. 30, 2017)***).

(42 U.S. Code § 1983 - Civil action for deprivation of rights - Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was

unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(R.S. § 1979; Pub. L. 96–170, § 1, Dec. 29, 1979, 93 Stat. 1284; Pub. L. 104–317, title III, § 309©, Oct. 19, 1996, 110 Stat. 3853.)

After exhausting her administrative remedies, the plaintiff filed suit against her former employer, the Pennsylvania Human Relations Commission (PHRC), alleging discrimination on the basis of her race and disability. Because no individual liability exists under Title VII or the ADA, Plaintiff relied on Section 1983 to bring claims against her two supervisors in their individual capacities as “state actors.” The Western District of Pennsylvania granted the PHRC’s motion for summary judgment, finding Title VII and the ADA do not create individually enforceable rights under Section 1983. Plaintiff appealed to the Third Circuit and the Third Circuit affirmed summary judgment for the defendants.

Title VII and the ADA have comprehensive regulatory schemes that include pre-lawsuit requirements, discreet filing deadlines, and limited liability for individual actors, the Third Circuit explained. Section 1983 contains no such administrative scheme. Instead, Section 1983 allows plaintiffs to proceed directly in court.

The court found that allowing Title VII or ADA claims to be brought as Section 1983 claims would “thwart Congress’s carefully crafted administrative scheme by throwing open a back door to the federal courthouse when the front door is purposefully fortified.” Thus, plaintiffs seeking to recover for workplace discrimination must use the administrative process outlined in the antidiscrimination statutes and cannot bypass those requirements through Section 1983.

AN ADA COMPLIANCE CHALLENGE

Plaintiff joined the employer, a city, in 2001 as a Heavy Equipment Operator in the Street Department. An on-the-job injury that same year left him disabled, and he could no longer perform the duties of his position. The Street Department superintendent initially accommodated Plaintiff by letting him do office work. In 2005, Plaintiff and the superintendent reached a written agreement, under which Plaintiff would perform the duties of the Street Department Foreman for two years, This would be at his prior Heavy Equipment Operator pay rate. During this time, the actual Foreman voluntarily worked as a mechanic but retained his Foreman title and pay.

This arrangement continued unchanged until June 2012. The superintendent retired. The new superintendent removed Plaintiff from the Foreman position and assigned him to work inventory. The Plaintiff indicated that the physical demands of the inventory job made it difficult for him to work. When Plaintiff asked to be returned to the Foreman position, the superintendent insisted that since the original Foreman retained the Foreman title and pay, he, not Plaintiff, should perform the duties of the job.

Plaintiff took disability retirement. He then filed suit, claiming that the employer had violated the Rehabilitation Act because the superintendent’s refusal to return him to the Foreman position denied him a reasonable accommodation. The district court had granted summary judgment for the employer.

The appellate court affirmed. It held that Plaintiff had failed to identify any reasonable accommodation the employer could have provided. The Rehabilitation Act, similar to the ADA, does not require an employer to create a new position for a disabled employee or to reassign the employee to another job if no vacant position is available. The Plaintiff presented no evidence that the Foreman position was ever vacant during the time he performed Foreman duties. The employer was not obligated to create a second Foreman position. The employer did it have any responsibility to “bump” the actual Foreman from the job to generate a vacancy for Plaintiff, or to promote Plaintiff as an accommodation for his disability.

The fact that the City had accommodated Plaintiff for years by allowing him to perform Foreman duties did not, in the Eleventh Circuit's opinion, mean his removal from those duties was a failure to accommodate. Since this accommodation was not required by law, removing it would not violate the Rehab Act's accommodation requirements.

This recent decision by the Eleventh Circuit Court of Appeals supports the impression that employers should not be penalized for going beyond their lawful obligations.

SERVICE AND ASSISTANCE ANIMALS

Universities, colleges, and schools receive requests from students to bring "service animals" and "assistance animals" on campus as an accommodation. Under the ADA, Section 504 of the Rehab Act, and the Fair Housing Act (FHA), institutions are required to accommodate students with disabilities by allowing service animals on the campus - public spaces, academic buildings, residential units, and other facilities. By contrast, under these federal laws, institutions are only required to allow assistance animals in campus dwelling units and in the employment context (although state or local laws may impose additional requirements).

There is a difference between a service animal and an assistance animals. Under Title III of the ADA, a service animal is "any dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, including any physical, sensory, psychiatric, intellectual, or other mental disability." Service animals include seeing-eye dogs trained to guide the blind; dogs trained to detect the onset of an epileptic seizure; and dogs trained to remind a person with depression to take medication.

On the other hand, an assistance animal (sometimes referred to as an "emotional support animal") can be a cat, dog, or other type of companion animal. While Emotional Support Animals or Comfort Animals are often used as part of a medical treatment plan as therapy animals, they are not considered service animals under the ADA. These support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities. Even though some states have laws defining therapy animals, these animals are not limited to working with people with disabilities and are not covered by federal laws protecting the use of service animals. Therapy animals provide people with therapeutic contact, usually in a clinical setting, to improve their physical, social, emotional, and/or cognitive functioning.

For a quick review: Title II of the ADA applies to public educational institutions. Title III applies to private entities that are "places of public accommodation," including private K-12, undergraduate and postgraduate schools, and other places of education. Section 504 applies to any institution receiving federal financial assistance, which covers public and private colleges, and universities. The FHA could pertain to campus housing such as residence halls and dormitories (although courts have not explicitly settled the matter). Each of these statutes imposes various obligations upon educational institutions to accommodate students' service or assistance animals. **Remember, many states and localities have adopted further anti-discrimination statutes requiring accommodation of a broad range of service and assistance animals.**

Each federal statute has circumstances under which it mandates institutions to consider and enlist the **interactive process**. The ADA, requires that any public entity or place of public accommodation "modify its **policies, practices, or procedures** to permit the use of a service animal by an individual with a disability."

When a student requests permission to bring a service animal into the classroom as an auxiliary aid because of a disability, you may not make inquiries if it is readily apparent the animal is trained to do work or

perform tasks for an individual with a disability. If a visually impaired student requests to bring a seeing-eye dog into the classroom, you may not make inquiries about the dog. However, in situations where it is not obvious the dog is a service animal, you may ask two specific questions: (1) whether the dog is required because of a disability, and (2) what work or task the dog has been trained to perform.

Therefore, if a student requests to use a service dog to alert him when his blood sugar reaches dangerous levels, you are not allowed to request documentation for the animal (such as proof that the dog has been trained), require that the dog demonstrate its task, inquire about the nature of the student's disability, or require medical documentation.

Under Section 504, when a student requests permission to bring a service animal into the classroom as an auxiliary aid, at least where the disability and the function of the service animal are not obvious, you may initiate the **Section 504 interactive process**. This permits you to ask the student for documentation to confirm the disability, the need for the services requested, documentation of the dog's training, and how you can best accommodate the student and the dog.

The FHA regulations permit a much broader scope of animals in residential dwellings, including assistance animals. This statute further permits you to verify the existence of the disability and the need for the accommodation by requiring the student to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal serves to alleviate at least one of the identified symptoms or effects of the existing disability.

The result is an interplay between the ADA, Section 504, and the FHA. When it comes to inquiries and accommodations, one needs to begin the interactive process with individual students on a case-by-case basis.

Train disability services professional and include residence hall staff. There exists on occasion a stigma or skepticism associated with students whose disabilities are not apparent, or with animals not fitting the mold of the traditional seeing-eye dog. It is imperative that faculty and staff understand the antidiscrimination laws and your institution's policies and legal obligations regarding service and assistance animals.

The federal laws provide a floor, not a ceiling;. In this somewhat complicated arena, when in doubt, it is advisable to consult a legal professional who is well-versed in these areas before making any final decisions.

NEW FLORIDA LAW AIMS TO PUT BRAKES ON ADA LAWSUITS

Florida has adopted what appears to be the first law in the country attempting to provide some defense to harassed businesses, reacting to the numerous lawsuits alleging that places of public accommodations create "barriers to access" to people with disabilities.

The law authorizes qualified experts to inspect places of public accommodation for ADA compliance purposes. The expert then issues a "certificate of conformity" and/or develop a plan for the owners to remedy the situation. The business/property owners would then file the "certificate" or "plan" with the Florida Department of Business and Professional Regulation. This would serve as notice to the public of compliance with the ADA.

Title III of the American with Disabilities Act prohibits discrimination against persons with disabilities in places of public accommodation and commercial facilities. Practically all types of businesses that serve the public are covered by Title III. These include theaters, convention centers, doctors' offices, , museums, libraries, private schools, health spas, and day care centers.

Under the ADA, a plaintiff alleging a business has failed to make the modifications necessary to remove barriers to access can seek only injunctive, or non-monetary, relief. In addition, the ADA allows an award of attorney's fees to successful plaintiffs. Attorney's fees, costs, expert fees, and litigation expenses can quickly amount to thousands of dollars.

The provision for fees and expenses has taken a law aimed at improving access to public accommodations and commercial facilities for people with disabilities and turned it into what one federal judge in Florida has decried as a "cottage industry" for attorney's fees. (*Rodriguez v. Investco, L.L.C.*, 305 F. Supp. 2d 1278, 1282 (M.D. Fla. 2004)).

Some individual plaintiffs have sued business hundreds of times over the past few years alone.

The judge in Rodriguez also pointed out that persons with disabilities persons are sometimes used as "professional pawn[s] in an ongoing scheme to bilk attorney's fees" from businesses. Another Florida judge stated that "the system for adjudicating disputes under the ADA cries out for a legislative solution." The judge also noted, "Only Congress can respond to vexatious litigation tactics that otherwise comply with its statutory frameworks ... [because] the existing law encourages massive litigation ... [and] the means for enforcing the ADA (attorney's fees) have become more important and desirable than the end (accessibility for disabled individuals)." (*Brother v. Tiger Partner, LLC*, 331 F. Supp. 2d 1368, 1375 (M.D. Fla. 2004)).

The Florida Legislature has finally taken up the cause in an effort to assist Florida businesses. Governor Rick Scott signed HB 727, which enacts Florida Statute § 553.5141, on June 23, 2017.

Under the law, an owner of a place of public accommodation who requests a qualified expert y defined in the law to inspect that owner's facility may submit the expert's "certification of conformity" with the Department of Business and Professional Regulation indicating the place of public accommodation conforms to Title III of the ADA. If the facility does not conform to Title III, the owner, alternatively, may submit an ADA plan to remedy.

If the property is compliant with the ADA, the certificate of conformity made by a qualified expert must include the date of inspection, the name of the expert, proof of the expert's qualifications, and a statement by the expert confirming the conformity of the property.

If the property is not yet in compliance, the owner may submit a plan to remedy approved by a qualified expert that indicates the place of public accommodation plans to conform to Title III within a specified time period. The plan must detail how it will remedy any existing deficiencies. Also, it needs to state when the remedy will be initiated and completed. The statute states that in no instance can it later than 10 years from the adoption of the plan.

An owner of a place of public accommodation may file a "certificate of conformity" or a plan with the Department of Business and Professional Regulation. That "serves as notice to the public that the place of public accommodation is in compliance with Title III of the Americans with Disabilities Act or that such place of public accommodation is making reasonable efforts to comply with such act."

The law does not prohibit disabled plaintiffs from filing ADA lawsuits against public accommodations, nor does the law prohibit plaintiffs' attorneys from seeking fees as such a law would fail, because a state law cannot invalidate a federal law. The Florida law provides that "a court must consider any [remedy] plan or certification of conformity filed in accordance with this section by a place of public accommodation with the department before the filing of the plaintiff's complaint, when the court considers and determines if the plaintiff's complaint was filed in good faith and if the plaintiff is entitled to attorney fees and costs." This codifies existing law holding that plans in existence before an ADA lawsuit is filed moots any such claim.

The It is too early to know if the new law will make any dent in the proliferation of ADA barrier-to-access cases. The Florida Department of Business and Professional Regulation will create a website to catalog “certificates of conformity and remedy plans”. Florida has provided business owners a means to defeat or limit such lawsuits, and to minimize the fees available to a plaintiff where a remedy or conformity plan is appropriately filed. Business owners are encouraged to lower the risk of ADA barrier-to-access lawsuits by adopting remedy plans, and to post them online. Hopefully, this should discourage plaintiffs’ from targeting business owner properties solely to earn attorney’s fees.

In California, the Certified Access Specialist (CASP) program was created by Senate Bill 262 (Chapter 872, 2003) and is designed to meet the public's need for experienced, trained, and tested individuals who can inspect buildings and sites for compliance with applicable state and federal construction-related accessibility standards. The CASP program is governed by Title 21 Voluntary Certified Access Specialist Program Regulations. Revised regulations for the CASP program went into effect on May 9, 2016:

WORKERS COMP CHALLENGED BY FEDERAL DISABILITY LAWS

Employment laws that govern disabilities in the workplace can also apply to workers compensation claims, sometimes adding more complexity to a challenging situation. This is a growing concern as the legal issues become more entangled and employers grapple with accommodating workers.

Workers comp insurers and employers should understand the nuances of federal laws such as the ADA and its amendments act, along with the FMLA, to better protect them from compliance fines, penalties and lawsuits, panelists told attendees recently at the Disability Management Employer Coalition’s annual conference in California. “We need to understand from the employee’s perspective how they are being served,” said the Sacramento-based director of total health & productivity management, disability, and absence management for a major hospital network. “What starts to happen is something that should be simple becomes very complex.”

A senior vice president a New Mexico based of a disability and absence practice & compliance for a major claims management services said much of the problem is the “siloed organization” of companies that keep workers comp and disability issues separate. Workers’ comp lands in the finance department, and everything else gets to the human resources and benefits departments. “Break down your silos and collaborate (because) that’s where you’re seeing your problems,” he said. “There are opportunities to break down those barriers. There are inconsistent approaches on the workers compensation side and the disability side (and) we need to challenge the status quo.”

A Chicago-based co-chair of the labor and employment practice group told attendees to engage in the interactive process with injured or disabled workers to better understand what accommodations are needed. He spoke of an accepted process that is (1) recognize there is the request; (2) understand the job description and the essential functions of the position; (3) obtain necessary medical information; (4) explore accommodation options; (5) interact with the employee about the accommodations; (6) corroborate the worker’s input and offer options; (7) choose the accommodation; (8) implement the accommodation; and (9) monitor the worker to ensure accommodation was effective, and continues to be effective. These steps are simple, yet misunderstood and all too often ignored. “(The) interactive process can prevent lawsuits.” He stated that he has seen where an employer engages in the interactive process goes a long way in warding off the EEOC and lawsuits.

Changing regulations can create more roadblocks and confusion. It was noted by the panelist that staying current with regulations and what is required is the best practice as a way to avoid the pitfalls.

PRESIDENT NOMINATES EEOC COMMISSIONERS

In June, the President nominated Janet Dhillon, a private sector attorney, as EEOC Chair, to replace Jenny Yang, who was EEOC Chair under President Obama. (Ms. Yang's term expired July 1, but she is allowed to hold her seat until a replacement is confirmed.)

If Ms. Dhillon and Dr. Gade are confirmed, there will be a Republican majority on the EEOC with Victoria Lipnic, another Republican who is currently on the EEOC and serving as Acting Chair. Dr. Gade's term would expire July 1, 2021.

Dr. Gade has a Master's and Ph.D. in Public Administration and Public Policy; is a veteran of the second Iraq War,, and lost his right leg in 2005 after an explosion that occurred while he was carrying out a routine patrol.

After spending about a year in recovery, Dr. Gade went on to work for the administration of President George W. Bush on veterans' issues, military policy, and disability policy. He has also served on the National Council on Disability, having been appointed by then-House Speaker. He has recently retired from a faculty position at his alma mater, the U.S. Military Academy in West Point, where he taught American politics.

From the media, Dr. Gade appears to be a strong advocate for self-reliance and getting disabled veterans back to work. It could mean that he will strongly urge reasonable accommodation. He has spoken out against the military definition of "disability," contending that it is too broad and encourages veterans to stay out of the work force.

In his 2013 op-ed he wrote for The Wall Street Journal he said that by categorizing minor conditions as disabilities, the [veterans] process threatens to become a kind of stealthy welfare system, where those with minor conditions might feather their nests at the expense of both taxpayers and truly disabled veterans trapped behind them in a line that stretches over the horizon. This also harms the veterans who are being told the lie that they are "disabled" and being paid to believe it. Sadly, this process can decrease veterans' work incentives and dull their ability to contribute to society after military service. Dr. Gade goes on to advocate that the definition of "disability" in the veterans' program be narrowed to exclude "minor or age-related conditions," that veterans' claims be prioritized based on the seriousness of the conditions, and that the Veterans Administration place a renewed focus on retraining, rehabilitating and reintegrating veterans into the workforce. Those with serious disabilities should be compensated for their pain and reduced quality of life, but they should also be encouraged to work. Paying veterans to stop working is the wrong course for veterans and for broader American society.

Dr. Gade's philosophy about disabled veterans does not seem inconsistent with the aims of the employment provisions of the ADA, or the positions taken by the EEOC under President Obama. It seems that Dr. Gade would favor the EEOC's dim view of "100 percent recovered" policies (employers who require employees with illnesses or injuries to be "100 percent" before they can return to work).



KEVIN L. FAULCONER

MAYOR



WELCOME TO THE
NATIONAL ASSOCIATION OF ADA COORDINATORS'
FALL 2017 NATIONAL ADA CONFERENCE

OCTOBER 23-26, 2017

On behalf of the citizens of San Diego, I am pleased to welcome the National Association of ADA Coordinators to the Fall 2017 National ADA Conference "A Steady Hand in Uncertain Times" Celebrating the Association's 25th Anniversary.

For 25 years the National Association of ADA Coordinators has brought ADA coordinators together, providing a forum for the most up-to-date information on ADA issues and enforcement.

The City of San Diego places a high priority on ADA compliance efforts and is honored to once again co-host this important conference. I am certain you will find San Diego to be the perfect location for your conference and I invite you to explore America's Finest City during your stay here.

Please accept my warmest wishes for a successful conference.

Best personal regards,

A handwritten signature in blue ink, which appears to read "Kevin L. Faulconer", is positioned below the text "Best personal regards,".

Kevin L. Faulconer
Mayor

“A Steady Hand in Uncertain Times”

Co-host – City of San Diego

Day One - Monday, October 23, 2017 - Morning General Sessions

Conference Program - Page 1

8:15 a - 9:00a	Continental Breakfast and Registration
8:00a - 8:55a	<p>ADA INTRO AND BASICS (For <u>Anyone</u> wishing a Solid Review)</p> <p>This workshop is designed as an orienting, basic hour to acquaint the new or returning ADA Coordinator with current terms, aspects of legislation, and a solid foundation from which to proceed confidently into the rest of the conference, giving each participant a primary knowledge base similar to all conference participants. Let's start from the very beginning - any and all are welcome to this workshop.</p> <p><i>Irene Bowen, Melissa Frost, Brian Nelson, John Wodatch</i></p>
9:00a - 9:30a	<p>WELCOME</p> <p><i>Phong Nguyen, M.D., P.A. - Association Chairman and Conference Coordinator</i> <i>Kevin Faulconer, Mayor, City of San Diego (Invited)</i> <i>John Wodatch, J.D., P.A. - Association President</i> <i>Paul Hagle, P.A., Association Executive Director</i> <i>Rosa Viramontes, District Director, U.S. E.E.O.C., Los Angeles</i></p>
9:30a - 10:30a (1 PA CEU)	<p>DOJ KEYNOTE – WHAT'S HAPPENING AT THE DOJ</p> <p>DOJ covers recent and important emerging ADA case law, issues and the work of DOJ with U.S. Attorneys offices throughout the U.S.</p> <p>With the goal of avoiding litigation while assuring your ADA policies and decisions are up-to-date, we open the floor to your questions relating to best practices and how we can help you be your most effective in meeting your responsibilities.</p> <p><i>Anne Raish, J.D.</i> <i>Acting Chief, Disability Rights Section</i> <i>Civil Rights Division, U.S. Department of Justice, Washington, DC</i></p>
10:45a - 12:00p (2 PA CEU)	<p>EEOC KEYNOTE – CASE LAW UPDATE</p> <p>This interactive session will focus on new, significant legal decisions pertaining to the ADA and will address relevant implications in the workplace.</p> <p><i>Christopher Kuczynski, J.D., LL.M., P.A.</i> <i>Acting Associate Legal Counsel & ADA/GINA Policy Director, Office of Legal Counsel,</i> <i>U.S. E.E.O.C., Washington, DC.</i></p>
12:00p - 1:00p	<i>Hosted by National Institute on Employment Issues</i>

Conference sessions and faculty subject to change without notice due to unforeseen circumstances.

**Day One - Monday, October 23, 2017 - General Sessions AFTERNOON Workshops
Conference Program – Page Two**

Time Periods	Workshop Synopsis
1:00p - 2:00p <u>and</u> 2:15p - 3:15p (2 PA CEU)	<p align="center"><i>CASE LAW UPDATE & THE CHALLENGES OF EXTENDED LEAVE, TELEWORK, AND JOB REASSIGNMENT</i></p> <p>During this double session, more recent legal decisions will be presented. There will be a discussion covering three of the most common and challenging accommodation requests - leave, telework, and reassignment. In the second hour we will continue to explore the challenges, solutions and good practices.</p> <p align="center"><i>Christopher Kuczynski, J.D., LL.M. Acting Associate Legal Counsel, ADA/GINA Policy Director, Office of Legal Counsel, U.S. E.E.O.C., Washington, D.C.</i></p>
3:30p - 4:45p (1 PA CEU)	<p align="center"><i>BUILDING ACCESSIBLE WEB SITES</i></p> <p>Using a non-accessible web site as a beginning, the web site will be modified, as needed, to make it compliant with WCAG 2.0. from a non-technical viewpoint.</p> <p align="center"><i>Joe Dolson with Jim Bostrom, Irene Bowen, Phong Nguyen</i></p>

SPECIAL CONFERENCE SOCIAL EVENTS

Association President's Networking Reception

Tuesday, October 24, 2017, 5:00 PM

Meet and network with other ADA professionals and our conference faculty

"Association's Got Talent" - Find our Association's "Voice"

Our Semi-Annual Karaoke Get-Together

Wednesday, October 25, 2017, 7:30 PM

All are welcome - "singers" (single and/or groups) and voting audience members.

Donated prize of \$50.00 each for the three most entertaining single, duo, and/or group.

Meet your fellow conference participants and faculty in a very relaxed setting.

Complimentary Refreshments at Both Traditional Events

Day Two - Tuesday, October 24, 2017 - Concurrent MORNING Workshops
Conference Program – Page 3

Time Periods	Track	Workshop Synopsis
8:15a - 9:00a		Continental Breakfast and Registration
9:00a - 10:20a (2 PA CEU ea ADVANCED) (1 PA CEU ea BASIC)		FOR PAs and PA Candidates only who have completed all three of the PA ADA basic sessions: These advanced sessions offer the PA an opportunity to ask questions of the conference faculty. The object is to develop suggestions to solve difficult issue demonstrating best practices. There are two consecutive sessions for PAs for the Access, Services, & Design; Employment; and Higher Education tracks.
	ACCESS, SERVICES, & DESIGN	THE ADA BASICS: GUIDING PRINCIPLES OF THE ADA Learn the basic principles of the ADA: equal opportunity, broad coverage of persons with disabilities, reasonable modifications, effective communication, integration, accessible new construction and alterations, program accessibility, and effective enforcement. Learn about the history of the ADA, its relationship to Section 504, and how the ADA's concepts guide ADA Coordinators in their work. <i>John Wodatch with Irene Bowen, Dean Perkins</i> <i>(Jim Bostrom with Jim Terry to lead Advanced P.A. Access sessions)</i>
	EMPLOYMENT	IS YOUR FOUNDATION SOUND? This session will cover the basics of the ADA and the implications of the EEOC regulations with case studies and case law. <i>Brian Nelson with Mary Jo O'Neill, Nicole St. Germain</i> <i>(Chris Kuczynski and Paul Hagle lead Advanced P.A. Employment sessions)</i>
	HIGHER EDUCATION	"ONE SINGULAR SENSATION" FUNDAMENTALS FOR THE ADA COORDINATOR 101 The education track will walk students Brandy and Brady through their first year- from admission and a variety of academic adjustments, to academic and discipline concerns. As their ADA Coordinator, you will learn the basic requirements to comply with DOJ Title II and Title III, along with the Sec. 504 regulations you know and love. The requirements for notice of non-discrimination, designation and publication of a Title II/Section 504 Coordinator, Policy and Procedure considerations will be discussed. <i>Melissa Frost with Paul Grossman, Howard Kallem</i> <i>(Jim Long leads the Advanced P.A. Higher Education sessions)</i>
10:40a - 12 Noon (2 PA CEU's ea)	ACCESS, SERVICES, & DESIGN	THE ADA BASICS: BUILDINGS AND FACILITIES Title II sets out requirements for new, altered, and existing facilities. Learn what these provisions are, how they differ and explore the 2010 ADA Standards. Get an overview of the ADA Accessibility Standards and how to apply them to buildings and facilities, including sidewalks and other parts of the right of way, and recreation facilities like pools and parks. <i>Jim Bostrom with Jim Terry, Dean Perkins</i>
	EMPLOYMENT	WHAT'S UP DOC? This session will address the duties and responsibilities of employees and employers with respect to health-related inquiries, examinations, and records. <i>Mary Jo O'Neill with Brian Nelson, Nicole St. Germain</i>
	HIGHER EDUCATION	"I NEED TO SEE YOUR PAPERWORK" - DOCUMENTATION AND THE INTERACTIVE PROCESS Learn the qualification standards and how to effectively communicate with healthcare professionals to get the information you need to implement effective academic adjustments for a variety of disabilities. <i>Paul Grossman with Melissa Frost</i>
12:00 - 1:00p		Lunch - Hosted by National Association of ADA Coordinators

Day Two - Tuesday, October 24, 2017 - Concurrent AFTERNOON Workshops
Conference Program – Page 4

Time Periods	Track	Workshop Synopsis
1:00p - 2:00p (1 PA CEU ea)	ACCESS, SERVICES, & DESIGN	<p align="center"><i>MODIFICATIONS TO POLICIES AND PRACTICES: A PRACTICUM</i></p> <p>After an overview of the “reasonable modifications” provisions of the ADA regulation and an exploration of recent case law, we’ll explore several scenarios together and in groups. The goal is to understand how to approach requests or needs for modifications and how to work with the requester and your entity’s managers and staff in deciding on the “right” approach. <i>Irene Bowen with John Wodatch</i></p>
	EMPLOYMENT	<p align="center"><i>WHAT YOU DON’T KNOW CAN HURT YOU</i></p> <p>Every employer needs to ensure their employee qualification standards and essential functions are legitimate. Demonstrative case studies and case law will be presented and discussed. <i>Brian Nelson with Chris Kuczynski, Mary Jo O’Neill, Nichol St. Germain</i></p>
	HIGHER EDUCATION	<p align="center"><i>“HOUSTON, WE HAVE A PROBLEM” - CHALLENGING ACCOMMODATION REQUESTS</i></p> <p>Brandy has a service dog and Brady needs his comfort cat. This session will outline important practice for your campus in flexible attendance, extended time on tests, quizzes and assignments and three challenging housing areas: Allergies; Requests for single room for a variety of issues including mental health concerns; and Service animal policies and when a request for an assistance animal must be considered as an accommodation. <i>Paul Grossman with Melissa Frost, Howard Kallem, Jim Long</i></p>
2:15p - 3:15p (1 PA CEU ea)	ACCESS, SERVICES, & DESIGN	<p align="center"><i>PROGRAM ACCESSIBILITY: PROVIDING SERVICES WHEN NOT ALL BUILDINGS ARE ACCESSIBLE</i></p> <p>Title II prohibits discrimination in the “services, programs, or activities of a public entity.” Since 1977 the Federal government has used the concept of “program access” to address providing access in an environment where not every building is accessible. Learn what program access means today, how it applies to programs offered at different types of facilities, and how the 2010 Standards affect a public entity’s obligations. <i>John Wodatch with Jim Bostrom, Irene Bowen, Jim Terry with Dean Perkins</i></p>
	EMPLOYMENT	<p align="center"><i>LET’S BE REASONABLE - PART ONE</i></p> <p>Using realistic scenarios, this two-part interactive workshop will address legal concepts and demonstrate how human interaction and emotions can affect the interactive process. The panel will provide practical approaches and possible solutions to the “not so easy” accommodation requests. <i>Chris Kuczynski with Brian Nelson, Mary Jo O’Neill, Nicole St. Germain</i></p>
	HIGHER EDUCATION	<p align="center"><i>“THE STUFF THAT DREAMS ARE MADE OF” - ACCOMMODATION SUCCESS STORIES</i></p> <p>Effective academic adjustments are often the crucial difference between success and failure for a student. As the ADA Coordinator, you play a crucial role in providing equal opportunity to reach the student’s goals and dreams. This session will highlight successful student outcomes when effective academic adjustments are implemented. <i>Melissa Frost with Paul Grossman, Howard Kallem, Jim Long</i></p>
3:30p - 4:30p (1 PA CEU ea)	ACCESS, SERVICES, & DESIGN	<p align="center"><i>HEALTHCARE: FACILITIES, DIAGNOSTIC EQUIPMENT, AND POLICIES</i></p> <p>Accessible healthcare is a topic of growing interest and the Access Board’s publishing of the Medical Diagnostic Equipment Standards (for equipment like exam tables and scales) is generating additional interest and questions among ADA Coordinators, healthcare providers, and policy makers. This session reviews requirements for accessible healthcare from a policy, facilities, and equipment viewpoint, explores strategies that public health and private medical providers may use for compliance, and reviews how other mandates, such as those for effective communication and reasonable modifications, also apply to accessible healthcare. <i>Jim Bostrom and Jim Terry with Irene Bowen, John Wodatch</i></p>
	EMPLOYMENT	<p align="center"><i>LET’S BE REASONABLE - PART TWO</i></p> <p>Part Two builds on the legal and emotional factors affecting the interactive process covered in Part One and presents scenarios and solutions for complex accommodation situations. <i>Christopher with Brian Nelson, Mary Jo O’Neill, Nicole St. Germain</i></p>
	HIGHER EDUCATION	<p align="center"><i>“TO INFINITY AND BEYOND” - ATHLETICS, FIELD WORK, AND TRAVEL</i></p> <p>Technical and academic standards often extend beyond the classroom. Follow Brandy and Brady through academic adjustments in athletics, field work, and travel. In this scenario-based session, learn how to determine the academic and technical elements of department, program, and class, and to recognize requests for fundamental alterations. <i>Jim Long with Melissa Frost, Howard Kallem</i></p>

4:45p - 5:45p – Association President’s Networking Reception (food and beverages)

Day Three - Wednesday, October 25, 2017 - Concurrent MORNING Workshops
Conference Program – Page 5

Time Periods	Track	Workshop Synopsis
8:15a - 9:00a		Continental Breakfast and Registration
9:00a - 10:20a (2 PA CEU's ea)	ACCESS, SERVICES, & DESIGN	<p><i>PUTTING PROGRAM ACCESSIBILITY INTO PRACTICE - PART ONE: SELF-EVALUATIONS AND TRANSITION PLANS</i></p> <p>After an overview of the requirements under the ADA and Section 504 regulations for self-evaluations and transition plans, we'll focus on how these efforts relate to program accessibility. In the last 20 minutes, we'll introduce a scenario to be explored in the next session.</p> <p><i>Irene Bowen and Jim Terry with Jim Bostrom, Dean Perkins, John Wodatch</i></p>
	EMPLOYMENT	<p><i>YOU CAN DO THIS STUFF</i></p> <p>This session will focus on unique and challenging workplace accommodation issues, such as emotional support animals, multiple chemical sensitivities, bossectomies, extended leave, collective bargaining agreements, etc.</p> <p><i>Brian Nelson with Mary Jo O'Neill, Nicole St. Germain</i></p>
	HIGHER EDUCATION	<p><i>"THE WHOLE TRUTH AND NOTHING BUT THE TRUTH" THE LEGAL YEAR IN REVIEW</i></p> <p>A review of recent, relevant Court decisions will outline important legal requirements, highlight best practices to comply with the ADA-AA and the new DOJ Title II and Title III regulations. Emphasis will include digital expectations for electronic information and technology to address Brandy and Brady's accessibility needs.</p> <p><i>Jim Long with Melissa Frost</i></p>
10:40a - 12 Noon (2 PA CEU's ea)	ACCESS, SERVICES, & DESIGN	<p><i>PUTTING PROGRAM ACCESS INTO PRACTICE - PART TWO: HANDS-ON SCENARIO</i></p> <p><i>(NOTE: While it's not a "prerequisite," attending Part One (the 9:00a Access session) will help you prepare for this session. Materials will be available at the registration table.)</i></p> <p>Working in groups, we'll examine a set of close-to-real-life facts of the sort a State or local government may face, then tease out the issues and come up with possible approaches and resolutions. For example, when must facilities be altered and when can operational means of providing access be effective? In this scenario, would a combination of these revised policies and training work?</p> <p><i>Irene Bowen and Jim Terry with Jim Bostrom, Dean Perkins, John Wodatch</i></p>
	EMPLOYMENT	<p><i>WHAT DO YOU EXPECT?</i></p> <p>This session will cover the interplay between employee conduct and performance and reasonable accommodations. Case studies and case law will also be presented and discussed.</p> <p><i>Mary Jo O'Neill with Brian Nelson, Nicole St. Germain</i></p>
	HIGHER EDUCATION	<p><i>"BADGES? WE DON'T NEED NO STINKING BADGES" - TOP 10 OCR TIPS</i></p> <p>Learn what to expect when you receive notice a notice from OCR and how to effectively respond if you receive a charge of discrimination. From the initial notice and Early Complaint Resolution to Compliance Review, these tips will help you avoid common pitfalls and to proactively respond.</p> <p><i>Jim Long with Melissa Frost, Howard Kallem</i></p>
12:00p-1:00pBB		Hosted by - National Association of ADA Coordinators

THE ASSOCIATION'S GOT TALENT!

Semi-annual Karaoke Challenge and Get Together

7:30 PM - Refreshments for all – Donated PRIZES for the audience winners.

For those of you who don't want to sing - come and enjoy the entertainment provided by those who will make you cheer and applaud for your favorites. Maybe you will hear the next "Voice".

Time Periods	Track	Workshop Synopsis
1:00p - 2:00p (1 PA CEU ea)	ACCESS, SERVICES, & DESIGN	<p>THE YEAR IN REVIEW</p> <p>To ensure that you are up to speed on the most significant recent developments in the field, this session reviews cases brought, settled, or decided in the past year. The focus will be on Title II, but the session will also include matters under Title III (such as effective communication and physical accessibility) and Title I (such as the definition of "individual with a disability") that may impact Title II responsibilities</p> <p>Rachel Weisberg</p>
	EMPLOYMENT	<p>THERE'S MORE TO THIS STORY</p> <p>This session will address employer liability exposures, such as disability-related harassment, retaliation, confidentiality, and associational discrimination.</p> <p>Mary Jo O'Neill with Brian Nelson, Nicole St. Germain</p>
	HIGHER EDUCATION	<p>"GO AHEAD. MAKE MY DAY"</p> <p>NON-DISCRIMINATORY APPLICATION OF THE CODE OF CONDUCT AND GRIEVANCE</p> <p>This scenario-based session will walk through the essential compliance elements; first with Brandy, who after acting out on campus now has a suspension hearing, and then with Brady, who has failed two courses and is claiming he did not receive accommodations. We will walk through the best policy and practice essentials to address distinguishing between academic and conduct suspension and dismissal issues.</p> <p>Melissa Frost with Howard Kallem, Jim Long</p>
2:15p - 3:15p (1 PA CEU ea)	ACCESS, SERVICES, & DESIGN	<p>EFFECTIVE COMMUNICATION: WHAT'S COVERED, WHAT'S EFFECTIVE, AND WHAT ARE THE LIMITS?</p> <p>Through real-life and creatively-imagined examples and scenarios, we'll examine how to apply the requirements for "effective communication" in a variety of settings. Areas addressed may include communication with or by companions, time sensitivity, web sites, court room settings, and the usual alphabet soup (VRI, TRS, TTY, etc.).</p> <p>John Wodatch with Irene Bowen</p>
	EMPLOYMENT	<p>DOCTOR, DOCTOR, GIVE ME THE NEWS</p> <p>This session will cover the perplexing challenges that can arise from dealing with healthcare professionals and will present solutions for addressing conflicting workplace recommendations.</p> <p>Phong Nguyen with Brian Nelson, Mary Jo O'Neill, Nicole St. Germain</p>
	HIGHER EDUCATION	<p>"ANYTHING CAN HAPPEN IF YOU LET IT" ATTENTION ISSUES, MENTAL HEALTH, THREAT TO SELF AND MEDICATION</p> <p>During this session the importance of threat assessment and the essential elements for readmission will be detailed. Then, we will learn to identify those who are "not otherwise qualified" and to recognize when mental health issues result in threat to self.</p> <p>Melissa Frost with Howard Kallem, Jim Long</p>
3:30p - 4:30p (1 PA CEU ea)	ACCESS, SERVICES, & DESIGN	<p>RIGHT OF WAY ACCESS: COMPLIANCE WITHOUT CLARITY</p> <p>The non-discrimination requirements of Title II, including program accessibility, apply to pedestrian facilities along public roadways, including public sidewalks, bus stops and shelters, on-street parking, wall-mounted and overhead objects, and signs. In this session we'll discuss DOJ's and the Federal Highway Administration's views of compliance, how the Title II regulation applies, what the Courts are saying, and possible strategies to compliance without ADA Standards. The discussion will include new construction, alterations, and physical changes to provide program access.</p> <p>Jim Bostrom and Jim Esselman with Dean Perkins</p>
	EMPLOYMENT	<p>WHAT WERE YOU THINKING?</p> <p>This session will cover some of the more incredible mistakes employers and employees have made from actual decisions. You really can't make this stuff up.</p> <p>Brian Nelson with Mary Jo O'Neill, Nicole St. Germain</p>
	HIGHER EDUCATION	<p>"ANYTHING YOU CAN DO I CAN DO BETTER" - CROSSROADS OF THE ADA AND TITLE IX</p> <p>Brandy is expecting. Overlapping issues between disability and modifications requested for Title IX issues will be discussed. Focus includes issues related to the Title IX regulations concerning pregnancy and their intersection with disability requirements. This session will also include relevant current issues in accommodating the longer-term effects of sexual misconduct.</p> <p>Melissa Frost with Howard Kallem, Jim Long</p>

THE ASSOCIATION'S GOT TALENT - Maybe you will hear the next "Voice"

7:30 PM - Semi Annual Karaoke Contest - Refreshments for all – Donated PRIZES for the audience winners.

For those of you who don't want to sing - come and enjoy the fun and entertainment provided by those who will make you cheer. Your cheers and applause will choose the prize winners.

Day Four - Thursday, October 26, 2017 - Concurrent MORNING Designated Sessions
Conference Programs – Page 7

Time Periods	Track	Workshop Synopsis
8:15a - 9:00a		Continental Breakfast and Registration
9:00a - 10:20a (2 PA CEU's ea)	ACCESS, SERVICES, & DESIGN	<p>LAW ENFORCEMENT AND THE ADA – PART ONE</p> <p>The ADA has been in effect since 1990 and new regulations were promulgated in 2010 providing specific information for law enforcement/corrections. Law enforcement has been slow to realize the impact of the ADA on day-to-day operations. Since the passage of the ADA Amendments Act there has been an increase in litigation relating to law enforcement and corrections, in particular, a number of cases involving effective communication and the use of force.</p> <p>Solutions used by entities must be tailored to the unique criminal justice environment. This updated workshop will review significant cases, settlement agreements, and other actions brought under Title II (and other regulations) exhibiting the impact on law enforcement, explaining what a program is for law enforcement, training considerations unique to policing, false confessions, jail and prison operations, disability-based behavior confused for criminal acts, and the use of sign language interpreters.</p> <p align="right"><i>Michael Sullivan</i></p>
	EMPLOYMENT	<p>LEARNING TO JUGGLE</p> <p>Using case scenarios, this session will explore many common challenges and good practices in synthesizing FMLA, ADA, workers' compensation, and other disability benefits.</p> <p align="right"><i>Brian Nelson with Mary Jo O'Neill, Nicole St. Germain</i></p>
	HIGHER EDUCATION	<p>"IF YOU BUILD IT THEY WILL COME" - THE ACCESSIBLE CAMPUS</p> <p>Learn the basic necessary components to meet campus physical access requirements including: accessible housing, accessible routes, accessible events, emergency preparedness and evacuation, and access to transportation.</p> <p align="right"><i>Melissa Frost with Howard Kallem, Jim Long</i></p>
10:40a - 12 Noon (2 PA CEU's ea)	ACCESS, SERVICES, & DESIGN	<p>LAW ENFORCEMENT AND THE ADA – PART TWO</p> <p>In Part Two we continue reviewing the interaction between law enforcement and the ADA - the successful application and the not so successful interaction between people with disabilities in law enforcement situations. The session will provide a practical and real world application of Title II to the police and law enforcement.</p> <p align="right"><i>Michael Sullivan</i></p>
	EMPLOYMENT	<p>BRING IT ON</p> <p>Let's talk about any unanswered questions or unresolved issues that have arisen during the conference. Come and pick the panelists' brains – they're not scared. Bring it on!</p> <p align="right"><i>Brian Nelson with Mary Jo O'Neill, Nicole St. Germain</i></p>
	HIGHER EDUCATION	<p>"CARPE DIEM"</p> <p>REVISING YOUR TRANSITION PLAN TO GREET THE HORIZON</p> <p>This session will take your transition plan and explore four important areas of focus to rapidly increase accessibility compliance: Accessibility services, Policy and procedure, Physical accessibility, and Electronic information and technology. Best practice to prioritize efforts and collaborate for successful integration across campus will be discussed. Learn these effective strategies to ensure your campus is ready for the next generation of students.</p> <p align="right"><i>Melissa Frost with Howard Kallem, Jim Long</i></p>
12:00p-1:00p		Hosted by MEDIC – Medical Education and International Consulting

DAY FOUR - THURSDAY, October 26, 2016 - AFTERNOON General Sessions
Conference Program – Page 8

Designated General Sessions - All Participants	
1:00p - 2:00p (1 PA CEU)	<p align="center"><i>RAISING UP THE RIGHT TO BE RESCUED</i></p> <p align="center"><i>When the Real Emergency Strikes – Emergency Preparedness - Part One</i></p> <p>As our society confronts more emergencies that test the limits of our capabilities, tough decisions will lie ahead. Although popular accounts sometimes state that the tenet of natural disasters is that they choose their victims capriciously and without remorse, the truth is far more disturbing—we choose the victims by failing to accommodate their needs. Challenging ourselves to remember that all members of society should have access to opportunities regardless of the impairments they may face may be the most difficult in moments of crisis; it is also no less important then. All too often, litigation serves to drive home lessons a willing listener could have learned long ago, litigation could have been avoided, and the parties could have gotten down to the business of crafting solutions much sooner.</p> <p align="center"><i>Michael Smith with Irene Bowen, Phong Nguyen, Jim Terry, John Wodatch</i></p>
2:15p - 3:15p (1 PA CEU)	<p align="center"><i>EMERGENCY PREPAREDNESS - PART TWO</i></p> <p>In Part Two we'll start by going over detailed plans that anticipate the needs of all people and outline clear strategies for meeting those needs. The emergency preparedness plans must provide for effective, detailed communication with all people before, during, and after emergency events. Other considerations are planning for the needs of mobility devices and service animals. Also, there requires planning with first responders for emergency evacuation of your facilities.</p> <p>What really happens after the emergency evacuation plan is in place? Does everyone know their role? How did the practice drills go?</p> <p>These sessions are designed to be interactive and addressing real-life issues.</p> <p align="center"><i>Michael Smith with Irene Bowen, Phong Nguyen, Jim Terry, John Wodatch</i></p>
3:30p - 4:30p (1 PA CEU)	<p align="center"><i>ADA COORDINATORS - A PERSPECTIVE</i></p> <p>You are your agency's/entity's/company's ADA Coordinator. The session will help you work within your organization to ensure you have the knowledge, funding, and resources - and buy-in - you'll need to succeed. Where do you start? How do you make progress? What do you need to know? What essential training and/or resources will you and your co-workers (and managers/supervisors) need? Who do you have to work with? How do you convince them that what you need to do is required, essential, and important?</p> <p align="center"><i>John Wodatch with Jim Bostrom, Irene Bowen, Melissa Frost</i> <i>Jim Long, Brian Nelson, Dean Perkins, Jim Terry</i></p>

Now is the time to plan for the Association's
Spring 2018 National ADA Conference
Tampa, FL, April 16-19, 2018

Fall 2017 National Conference Information & Registration - October 23-26, 2017 - San Diego

Must Pre-Register

NO Registrations Accepted at the Door

Conference information includes Early Bird Discount

EARLY BIRD, full conference, registration fee (* see below) available if registration and payment, by credit card or check only, is received by the Association, **no later than August 25, 2017. (No exceptions)**

To **RESERVE** your space, please **FAX** this completed registration form to: **(877) 480-7858, OR scanned PDF copy to NIEIEMAIL@aol.com**
If four or more participants from the same entity wish to register and pay in full at the same time, please call for special registration rates.
Regular registrations **must be paid in full and received no later than October 6, 2017**, or space/materials will be not reserved.

For information, please call **888-679-7227** and leave message with your contact number and best time to contact you.

Mail registrations and make payments to: National Association of ADA Coordinators, P.O. Box 958, Rancho Mirage, CA 92270

CONFERENCE AND HOTEL INFORMATION

The conference is being held at the Sheraton Mission Valley San Diego, 1433 Camino Del Rio South, San Diego, CA 92108. Complimentary shuttle provided from/to San Diego International Airport. Guest room Internet is complimentary. Daytime self-parking is complimentary (overnight \$8 per car/day) to attendees. **Participant is responsible for making own lodging reservation. Hotel requires credit card guarantee.** The Association has negotiated a special conference rate from three days before/after the conference at a per room rate of \$158 plus taxes (single/double) if reserved **no later than 9/28/2017**, provided room block has not been sold out. To make lodging reservations call hotel reservations at (619) 260-0195 and mention you are attending the National Association of ADA Coordinators conference. Persons with disabilities please make requests for any sleeping room accommodations at the time you make reservations.

In order to participate in the training, I have need of:

Vegetarian or _____ meal.

(The Association must know of accommodations required for training no later than 9/22/2017. If an assistant attends, the person must register, attend same conference workshop sessions as person requiring the accommodation, and cover costs of food and materials.)

JOIN or RENEW YOUR ASSOCIATE STATUS

The Association offers many benefits including reduced rates for workshops/conferences, a bi-monthly newsletter, an annual Associates' Directory for networking purposes, and a lapel pin. To join, complete contact information, check appropriate associate box below and include your fee. **If you join or renew and pay the first year dues at the time of registration, you can attend the conference at the Associate's rate.**

☐ Individual Associate – \$195;

☐ Organization Associate – \$345

See our web site - www.ADACorrdinators.org - for updated information on the **Professional Associates (PA) Program**: You must include a completed copy of the PA application form found on the web site and include an additional one-time ☐ \$125 application fee per application, to become a participant in the Association's P.A.

CONFERENCE DISCOUNTED REGISTRATION INFORMATION

Rate includes hosted continental breakfast(s), breaks, & luncheon(s) for Monday Through Thursday of conference

(Federal Tax Number is 33-0595554, nonprofit 501(c)(3) corporation)

Conference Dates	Associate Only - Daily Only Rates - Non-Associates
Mon. 10/23/2017	<input type="checkbox"/> \$595 <input type="checkbox"/> \$695
Tue. 10/24/2017	<input type="checkbox"/> \$595 <input type="checkbox"/> \$695
Wed. 10/25/2017	<input type="checkbox"/> \$595 <input type="checkbox"/> \$695
Thu. 10/26/2017	<input type="checkbox"/> \$595 <input type="checkbox"/> \$695

All Four Days of the Conference

Please note: You must be a current up-to-date Associate or join on this form to register at the Associate's conference rate.

ASSOCIATE - Full Conference After 8/25/2017 ☐ \$2,145

* ASSOCIATE - Early Bird by 8/25/2017 ☐ \$1,995

NON-ASSOCIATE - Full conference after 8/25/2017 ☐ \$2,795

* NON-ASSOCIATE - Early Bird by 8/25/2017 ☐ \$2,445

ANY CANCELLATION must be in writing to us no later than 10/06/2017 (no exceptions) and is subject to a processing fee of \$600. Remaining balance, after processing fee is deducted for any cancellation on or after 10/6/2017, can only be applied to the Association's Spring 2018 or Fall 2018 national conferences.

There are no refunds or credits for any no-shows on or after 10/12/2017.

TOTAL AMOUNT and METHOD OF PAYMENT

☐ Visa/MasterCard ☐ Amex ☐ Check

Cardholder: _____

Card number: _____

Expiration: _____ Total Amount: \$ _____

(Credit cards processed for the Association by conference planner, will show the words National Institute on Employment Issues - NIEI on your statement)

Please accept important emails from our Executive Administrator at:

compperf@ix.netcom.com

PARTICIPANT/ASSOCIATE INFORMATION

Name: _____ Title: _____

PLEASE Circle conference track of greatest interest to you: **ACCESS** **EMPLOYMENT** **HIGHER EDUCATION** (If left blank, ACCESS Track entered)

Organization: _____

Address: _____ Cty: _____ State: _____ Zip: _____

Phone:(_____) FAX:(_____) Email: _____

May we list your email in the conference participant list for networking purposes? Please circle: **Yes** **No**

Signature Required: _____ Date Approved/Received: _____ (WEB17)

Fall 2017 - Conference Keynotes and Faculty

ADA TITLE I AND GINA

Acting Associate Legal Counsel and Director, ADA/GINA Policy Division

U.S. E.E.O.C., Washington, D.C.

Christopher Kuczynski, J.D., LL.M., P.A.

Mr. Kuczynski joined the Commission in February 1997 as Assistant Legal Counsel and Director of the ADA Policy Division (now the ADA/GINA Policy Division). Chris supervises the development of regulations, policy guidance, and technical assistance publications on Title I of the Americans with Disabilities Act (ADA) and Title II of the Genetic Information Nondiscrimination Act (GINA), and regularly advises EEOC field and headquarters offices, including the offices of the Chair and Commissioners, on complex ADA and GINA issues. His leadership was critical in the issuance of final regulations implementing GINA (published in November 2010) and the ADA Amendments Act (published in March 2011).

Chris has made 36 presentations on the ADA, and more recently on GINA, to our Association's national conference audiences, including human resources and EEO professionals, supervisors and managers in the public and private sectors, medical professionals, and plaintiff and defence counsels. He has been interviewed on the ADA and GINA by numerous media outlets including The New York Times, USA Today, The Wall Street Journal, and The Washington Post. He has done radio or television interviews for ABC News, the CBS Morning News, and MSNBC, and has been a guest on C-SPAN's Washington Journal.

From January to October 2003, Chris was a Special Assistant to former EEOC Chair Cari Dominguez, and from October 2003 through April 2004, he was Associate Director of the White House Domestic Policy Council. Chris was a trial attorney in the Disability Rights Section of the U.S. Department of Justice from July 1993 until February 1997, and was a litigation associate for three years with a major Philadelphia law firm.

He has a B.A. in English from Villanova University, where he was a member of Phi Beta Kappa and from which he received the School of Liberal Arts and Sciences 2007 Alumni Medallion; a J.D. from Temple Law School; and an LL.M. from Yale Law School.

ADA TITLE II and III

Acting Chief, Disability Rights Section, Civil Rights Division

U.S. Department of Justice, Washington, D.C.

Anne Raish, J.D.

Ms. Raish has been with the Disability Rights Section since 2010, serving as a trial attorney before being appointed as a Deputy Chief. At the Department of Justice, Anne has worked on a range of disability rights-related issues, including enforcement of the right of individuals with disabilities to live, work, and receive services in the community under the Americans with Disabilities Act. She has worked with states in the negotiation and implementation of settlement agreements, and has worked on disability rights issues in the context of child welfare and professional licensing. Prior to joining the Civil Rights Division, Anne practiced law at a major New York law firm.

ADA Enforcing Agency Faculty

***Senior Attorney Advisor, Office of the Chief Counsel
Federal Highway Administration, Washington, D.C.***

Jim Esselman, J.D.

Mr. Esselman has served as the Civil Rights Team Leader since 2012, providing guidance and advice on the application of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 in the public right-of-way. In addition, Jim has provided guidance on the U.S. Department of Transportation's Disadvantaged Business Enterprise Program and Title VI of the Civil Rights Act of 1964. He also served as Special Counsel to the Chief Counsel at FHWA from 2011 through 2013. Prior to joining FHWA, Jim was in private practice for over ten years at Beveridge & Diamond law firm in Washington, D.C., with a focus on environmental litigation. Jim obtained his law degree from the University of Virginia School of Law.

Regional Attorney, U.S. Equal Employment Opportunity Commission, Phoenix, AZ

Mary Jo O'Neill, J.D.

Ms. O'Neill began her work at the E.E.O.C. as a trial attorney, then as a supervisory trial attorney, until she was selected as the Regional Attorney in 2002. Mary Jo manages the legal staff, litigates employment discrimination cases in federal court in five states, advises her enforcement colleagues, and is a frequent national trainer/speaker for the E.E.O.C. This will be Mary Jo's 16th time she has participated in our ADA Conferences.

Outreach and Education Coordinator, Los Angeles District of the U.S. E.E.O.C., Los Angeles, CA

Nicole St. Germain

Ms. St. Germain oversees the education and outreach initiatives along with public relations for the Los Angeles District, which includes central and southern California, southern Nevada, Hawaii, and the U.S. territories of Guam, American Samoa, Wake Islands, and the Commonwealth of the Northern Mariana Islands. Nicole joined the EEOC in 2009 and has held the positions of Enforcement Investigator and Systemic Investigator. She was appointed to the position of Outreach and Education Coordinator in 2016. Nicole holds a graduate degree in Forensic Psychology, undergraduate degrees in Sociology and Criminal Justice, and is fluent in American Sign Language.

District Director, Los Angeles District, U.S. E.E.O.C., Los Angeles, CA

Rosa Viramontes

Ms. Viramontes joined the EEOC in 1978 as a clerk typist. Rosa served in several support and administrative positions including personnel clerk, director's secretary and personnel management specialist before moving to the enforcement area as an investigator. After serving as an investigator for a number of years, Rosa held various senior-level investigative and supervisory positions, including systemic investigator, systemic and enforcement supervisor and program analyst. In 1997 Viramontes advanced to the management ranks where she has served in various capacities including enforcement manager, deputy director, and acting district director. Rosa has been the recipient of numerous agency awards, including the 2012 EEOC Chair's Award for Commitment to Excellence, the highest honor bestowed on EEOC staff. The EEOC's Los Angeles District Office encompasses central and southern California, southern Nevada, Hawaii, and the U.S. territories of Guam, American Samoa, Wake Islands and the Commonwealth of the Northern Mariana Islands.

ADA Enforcing Agency Faculty (Ret.)

***Deputy Chief (ret.), Disability Rights Section, Civil Rights Division
U. S. Department of Justice, Washington, D.C.***

Jim Bostrom

Mr. Bostrom has worked in the area of accessibility and accessible design for more than 42 years. He recently retired from DOJ with over 22 years of service including more than 12 years as deputy chief. The ADA Design Unit that Jim managed was comprised of architects, code specialists, and professional staff. An experienced presenter

and instructor, Mr. Bostrom developed technical assistance materials and has provided numerous training sessions that explained to both general and technical audiences the various aspects of accessible design and ADA requirements. Mr. Bostrom created the ADA web site, **ADA.gov**, which has become the federal government's leading online source of ADA information, and continued to be responsible for its operation until he retired. He was a principle at Barrier Free Environments, Inc. and a co-founder of the Center for Accessible Housing at North Carolina State University. Jim has a B.Arch and M.Arch from Virginia Tech. Jim is nominated to serve on the Association's Board of Directors.

Deputy Chief (ret.), Disability Rights Section, U.S. Department of Justice, Washington, D.C.

President, ADA One, LLC, Silver Spring, MD

Irene Bowen, J.D., P.A.

Ms. Bowen is a nationally recognized ADA consultant, trainer, and speaker. Before starting her firm in 2009, she was Deputy Chief of the Disability Rights Section at DOJ, where she oversaw enforcement of the ADA and was actively involved in the development of the ADA accessibility guidelines as well as DOJ's Title II and Title III regulations. Irene's clients include local governments, colleges and universities, public accommodations, a large school system, the State of Texas, and a Federal agency. She teams with architectural firms and others in assisting entities with self-evaluations and transition plans, and development of cost-effective approaches to compliance. Since 2011, Ms. Bowen has presented internationally, assisted in self-evaluations of Fulton County, GA, the City of Chicago, IL, the City of Seattle, several universities, and health-care providers; and authored or co-authored six ADA guides including an ADA guide for nonprofits; a resource for accommodating students who are deaf or hard of hearing at the post-secondary level from pepnet 2; a facilities guide for the state of Georgia and a guide for court officials). **Irene is a member of the Association's Board of Directors.**

Chief Regional Attorney (ret.), U.S. Department of Education, Office for Civil Rights,

Adjunct Professor of Disability Law at Hastings College of Law and the University of California

San Francisco, CA

Paul D. Grossman, J.D., P.A.

Paul is an Adjunct Professor of Disability Law at Hastings College of Law and the University of California. He regularly lectures or publishes on disability law at U.C. Berkeley, U.C. Davis, Ohio State University, LDAA, and the National Association of ADA Coordinators. Paul was one of the first individuals to bring the issue of educating returning war veterans to the attention of the higher education community and to develop both compliance and best practice strategies for this population. Many of Paul's compliance decisions, developed in his capacity as Chief Regional Attorney and Coordinator of OCR's National Disability Network are highlighted in the online publication "***Disability Compliance in Higher Education.***" Paul is co-author of "***The Law of Disability Discrimination***" (8th edition). Insights into this area of law are often drawn from his own challenges attending college and law school as an individual with a disability.

Senior Consultant, Employment Matters, LLC/Flynn Investigations Group

Senior Attorney (ret.), Office for Civil Rights, U.S. Department of Education

Denver Enforcement Office, Denver, CO

James D. Long, Jr., J.D., P.A.

Jim Long served for more than 10 years in the Office for Civil Rights of the U.S. Department of Education. Before joining the Office for Civil Rights he served as a litigation counsel for U.S. Department of Energy. Jim served as an officer in the Army's Judge Advocate General's Corp for 23 years. He is the Principal at Educational Rights Consulting and a Senior Consultant with Employment Matters, LLC—Flynn Investigations Group, a consulting firm. **Jim is a member of the Board of Directors of the National Association of ADA Coordinators.**

Deputy Assistant Attorney General (ret.), DRS

U.S. Department of Justice, Washington, D.C.

John Wodatch, J.D., P.A.

John Wodatch is a disability rights attorney who retired after 42 years of Federal government service. He authored the Federal government's first comprehensive disability rights regulations, the regulations implementing

section 504 of the Rehabilitation Act. He is one of the drafters of the Americans with Disabilities Act as he served as the Department of Justice's chief technical expert during the writing and passage of the ADA. He was the chief author of the Department of Justice's 1991 ADA regulations, created DOJ's initial ADA technical assistance programs, and assembled the Department's ADA enforcement staff. From 1990 until 2011 he served as the Director and Section Chief overseeing all interpretation, technical assistance, and enforcement of the ADA at the Department of Justice. Just before he retired, he was responsible for the first major revision of the Department's ADA regulations, including the 2010 Standards for Accessible Design. In 2010 he was honored with the Presidential Distinguished Rank Award for exceptional achievement in his career. He is now serving clients as an expert in the application of the ADA's requirements for accessible design and program accessibility for State and local governments and private businesses. On the international level, John is continuing his work seeking U.S. ratification of the United Nations Convention on the Rights of Persons with Disabilities. He received a B.A. from Trinity College, an M.P.A. from Harvard University, and a J.D. from the Georgetown University Law School. **John is the President of the Association and is a member of the Association's Board of Directors.**

Featured Senior ADA Professional Faculty Members

Accessibility Web Developer and Consultant, Accessible Web Design, St. Paul, MN

Joe Dolson

Mr. Dolson is an internationally recognized writer and educator in web accessibility. He writes a regular column on web accessibility for Practical eCommerce magazine. He works with the team that helps make the WordPress content management system to ensure great accessibility in that system. He helps people understand what makes the web work for people with disabilities. In addition to consulting and teaching, Joe provides web development and consulting services to clients throughout the United States, helping them towards more accessible web services for their customers and users. Joe is graduate of Macalester College.

Equal Opportunity & Affirmative Action Director

Melissa L. Frost, J.D., P.A.

Melissa has a history of public service that includes: Executive Director of Provo School District, State of Utah as the ADA Coordinator, Workers' Compensation Administrator, and a Loss Control Consultant advising all state agencies, school districts and post-secondary institutions regarding Family Medical Leave, ADA, Title VII discrimination, PDA, Title IX and other campus/student issues. She has also served the state as a Liability Prevention Specialist for the Developmental Center and as an Administrative Law Judge for the Department of Workforce Services. Prior to state service, Melissa worked fourteen years in healthcare management and administration in both California and Washington D.C. Melissa received her B.A. in Government and Politics from the University of Maryland and her J.D. from the J. Reuben Clark Law School at Brigham Young University. **Melissa is a member of the Association's Board of Directors.**

Executive Director, National Association of ADA Coordinators, Rancho Mirage, CA

Managing Director, National Institute on Employment Issues, Rancho Mirage, CA

Paul D. Hagle, P.A.

Mr. Hagle has been associated with the ADA since its passage in 1990. He is recognized for his seminars on ADA Title I throughout the United States. He serves as an expert witness for major hospitals on effective communications, and ADA Title I for a major airport, automobile company, airline, and a major fast food chain. He developed and presented one of the first programs dealing with ADA/Workers' Compensation/FMLA interface, the importance of disability awareness perception, and legal issues of Title I of the ADA since 1992. He was on the original Board of Directors and appointed the Association's Executive Director in 1992. He serves as Chair, Parks, Recreation and Trails Commission; and works with the City Council on ADA issues for the City of Rancho Mirage, CA. He received his B.A. from the University of Michigan and did graduate work at the University of California, Los Angeles. **Paul is a member of the Association's Board of Directors.**

Director of Title IX Compliance at Duke University, Durham, NC

Howard Kallem, J.D., P.A.

Howard Kallem previously had been with the Office for Civil Rights, U.S. Department of Education, serving for the last 15 years as the Chief Regional Attorney for the Washington, DC regional office and for five years before that in its policy office. He took a year off during his time with OCR to work as a Senior Equal Opportunity Specialist with the Office of Equity and Diversity Services at George Mason University in Virginia. Prior to that, he was with the U.S. Equal Employment Opportunity Commission for 14 years.

Director of the Utah Division of Risk Management, State of Utah, Salt Lake City, UT

Brian Nelson, J.D., P.A.

Mr. Nelson currently heads the agency which insures all state agencies, school districts, public institutions of higher education, and many charter schools in the State of Utah. Previously, Brian served as the ADA Coordinator for the Division of Risk Management, facilitating ADA/504 compliance relative to physical access, program access, employment practices, and student accommodations. He also served as Chairman of the Governor's Committee on Employment of People with Disabilities. Brian received his Bachelor of Arts and Juris Doctor degrees from Brigham Young University. **Brian is nominated to become a member of the Association's Board of Directors.**

Medical Director, Redlands Yucaipa Medical Group, Past Chief of Staff for Redlands Community Hospital, Adjunct Professor for University of California Medical School, Riverside, CA

Phong Nguyen, M.D., P.A.

Dr. Nguyen is Medical Director for a large medical group. Phong is a member of the Interdisciplinary Committee; Medical Director of the Redlands, Rialto, Loma Linda, San Manuel Fire Departments and Medical Director of the City of Redlands Police Department; Medical Director for the Paramedic Program at Crafton Hills College; Medical Director for Aeromedics, and ACLS Course Director/ Instructor. **Phong is the Chairman of the Board, Vice President of the Association, and is the Conference Coordinator**

ADA Coordinator, Florida Department of Transportation, Tallahassee, FL

Dean Perkins, R.A., P.A.

An architect since 1984, Dean Perkins joined the Florida Department of Transportation in 1988 to manage rest area design and production projects. He was appointed as the FDOT's statewide ADA Coordinator in January 1992. In this position, Dean is principal in initiating Department policies, developing procedures and managing practices related to accessibility for persons with disabilities for agency services and facilities along the state highway system and for buildings owned and operated by the Department. He has served as an expert witness in ADA matters. Dean designs and conducts training in ADA compliance around Florida and at national conferences. He provides technical support on accessible design and construction for city and county engineering and public works staff. He has a Master of Architecture from Florida A&M University. **Dean is the Secretary of the Association and a member of the Association's Board of Directors.**

Fire Chief and Commissioner and Vice Chair of the Department of Safety and Health Services, San Manuel Band of Missions Indians, San Bernardino County, CA

Michael J. Smith, M.S.

Chief Smith is responsible for the supervision of all emergency activities and operations. He established a 33-member fire department which serves the region under the California mutual aid system as well as a community preparedness, mitigation, response, and recovery nexus. In 2012, Michael was honored at the White House by the President as a "Champion of Change" for emergency preparedness. He was a principal in the development of San Bernardino County's Mutual Aid plan in which two or more jurisdictions furnish resources, facilities and services to each to prevent and to combat all emergencies. He was deployed to aid in the recovery from the "9-11-01" attacks as well as gulf-coast hurricanes, including Katrina. Mike is a graduate of the National Fire Academy, has a B.S. from the University of Redlands, an M.S. in Fire Service Leadership, & M.S. in Public Administration.

***ADA Consultant for Law Enforcement Issues, Michael Sullivan ADA Consulting, Petaluma, CA
ADA Coordinator (ret.), San Francisco Police Department, San Francisco, CA***

Michael J. Sullivan, B.A., P.A.

Mr. Sullivan is a nationally known and award-winning consultant specializing in ADA law enforcement issues. Michael also advises on both program and physical accessibility issues and has served as an expert witness in several cases. He has extensive expertise in developing reasonable accommodations and implementing training for peace officers regarding the

ADA requirements and responsibilities. Michael retired after 32 years as a police Sergeant with the San Francisco Police Department. During that time he was ADA Coordinator and Disability Community Liaison for 17 years. He was honored for his work by the City of San Francisco, the California State Legislature, U.S. Congress, and numerous community groups and non-profits. Michael was a member of the Executive Board of the President's Committee on the Employment of People with Disabilities from 1999 through 2001 and currently is on the advisory board of the ARC's, National Center on Criminal Justice & Disability. . Michael has a B.A. in Health Science with emphasis in Community Health Education from San Francisco State University. **Michael is an emeritus member of the Board of Directors.**

Chief Executive Officer, Evan Terry Associates and Corada.com, Birmingham, AL

James Terry, AIA, CASp, P.A.

Mr. Terry is a licensed architect in eight states with extensive access training and consulting experience in corporate, governmental, healthcare, schools, universities, libraries, retail, and recreational facilities. Under his leadership, ETA assists organizations in understanding their access requirements, cataloging barriers, and managing the implementation of their ADA and local access compliance plans. ETA developed **Corada** as a comprehensive online resource providing extremely fast and focused access to the regulations and standards, technical assistance, product information, just-in-time training, and other resources for ADA Coordinators. **Jim is a member of the Association's Board of Directors.**

Staff Attorney / Employment Rights Helpline Manager, Equip for Equality (EFE), Chicago, IL

Rachel M. Weisberg, J.D.

Rachel Weisberg represents clients in a wide range of disability discrimination cases, including cases under Titles I, II and III of the ADA, and analogous state and local laws. Rachel also manages EFE's Employment Rights Helpline, which aims to expand employment opportunities by providing legal and practical advice to applicants and individuals with disabilities. Rachel is a frequent trainer on the ADA and speaks regularly at national conferences and webinars. Prior to Equip for Equality, Rachel worked as a labor and employment associate at Sidley Austin LLP, and as a law clerk for a federal judge. Before law school, Rachel worked as an ADA technical assistance specialist at the Mid-Atlantic ADA Center, and during law school interned with EFE and the Disability Rights Section of the U.S. Department of Justice. Rachel earned her undergraduate degree from the University of Michigan and her law degree from Northwestern University.

Faculty confirmed at time of publication.

Conference announcements, agendas and faculty subject to change without notice
due to unforeseen circumstances.