



## NAADAC IS BACK

In 1992, our founding Executive Director, Paul Hagle, had an idea that started the National Association of ADA Coordinators (NAADAC). The Americans with Disabilities Act (ADA) had become law in 1990 and Paul recognized three important things: (1) ADA Coordinators were required for most State and local governments, and this was a new position created by the ADA, (2) that the private sector would also need top-notch information to successfully implement the comprehensive new law, and (3) ADA coordinators and ADA professionals would need accurate, up-to-date information, and a forum to interact with faculty and presenters who shaped the ADA and would implement the law at the federal and state level.

For the past 32 years NAADAC has continued to provide the most up-to-date information on the ADA to keep ADA Coordinators abreast of new trends and developments while still providing the basics for persons who are new to their ADA coordinator positions. What makes NAADAC truly unique is the opportunity for participants to engage in conversations with track faculty who bring decades of expertise working with the ADA and disability rights in federal and state government, higher education, employment, and law. Faculty freely share their deep knowledge and understanding of the ADA and apply key principles into everyday situations faced by ADA coordinators and professionals. Our faculty is equally comfortable handling basic ADA information as well as complex, and complicated, ADA requirements.

Although the ADA has been in effect for 32 years, ADA requirements and applications are evolving and expanding. This creates an ongoing need to stay abreast of updated regulations, including those for public rights of way, Section 504, web/app accessibility, and medical diagnostic equipment, while continuing to ensure compliance with the ADA. NAADAC continues to advance knowledge of the intersections between disability and topics such as remote work, exponential growth in the need for mental health support, and effective communication in a myriad of settings.

As it has done for more than 32 years, NAADAC remains an important foundation for ADA Coordinators to build their skills and knowledge base while creating a community of professionals committed to ensuring individuals with disabilities have equal access to our programs and services.

We hope that you will join us this November in beautiful San Diego as NAADAC provides legal updates, addresses new and existing ADA requirements, and dispenses valuable information addressing access, communications, policy, higher education, employment, healthcare, law enforcement and more, giving us each “Cause for Celebration” as we continue to advance the ADA and Section 504.

**Shelley Ducatt, NAADAC Board President**

## CAUSE FOR CELEBRATION

**2024 Fall Conference.** We’re excited to announce that NAADAC’s next conference will be held on November 13 – 15, 2024, at the San Diego Marriott Mission Valley, in San Diego, California. [Conference hotel virtual tour.](#) A block of rooms is reserved at the conference rate of \$189 per night (excluding state and local taxes) with a cut-off date of October 22, 2024. This rate will also be available to conference registrants up to three nights before and after the conference. [Book your group rate for the NAADAC Fall Conference.](#)

**Conference Agenda.** Attached is the agenda for all three tracks of the conference—Access, Employment, and Higher Education. Those who have attended prior conferences will recognize many of the experienced and capable faculty, including representatives from the Department of Justice and the Equal Employment Opportunity Commission. We look forward to seeing many of you again.

**Early-Bird Conference Online Registration.** If completed on or before September 30, 2024, the full conference registration fee will be \$1300 for associates and \$1500 for non-associates. Use [this link](#) if you have paid your annual associate dues and [this link](#) if you have not.

**Standard Conference Online Registration.** For registrations made after September 30, 2024, the full conference fee will be \$1500 for associates and \$1800 for non-associates. Use [this link](#) if you have paid your annual association dues and [this link](#) if you have not.

**Registration by Mail.** Please use the attached form to register by mail. The same eligibility deadline for early-bird registrations and payments will apply.

**Registration Entitlements.** All registrants will receive breakfast and lunch on all three days of the conference. Additionally, complementary WiFi will be available in each guestroom and public space. Overnight parking will also be discounted to \$25 per night.

**Travel to/from the Airport.** There is no free shuttle service available between the San Diego airport and the hotel. Conference attendees must arrange their own travel between the hotel and the airport and pay the costs of that travel. The following entities can provide accessible transportation between the airport and the hotel:

- Coronado Livery – 619.542.6310 or 619.417.6310
- Loops Transportation – 858.703.8555

See <https://www.sandiego.org/plan/visitors-information-services/accessible-traveling/transportation.aspx>.

**Questions.** Please direct any registration questions to Brian Nelson: (801) 376-9863 or [brian.nelson1333@gmail.com](mailto:brian.nelson1333@gmail.com).

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## ANNUAL DUES

Among the benefits of NAADAC associate membership are a trusted network of colleagues, newsletters, conference discounts, and COREADA, an invaluable resource for any ADA professional. Please renew or obtain your individual, group, or professional associate status at the rate of \$250 per person online at [Individual Associate Dues](#) or \$450 per organization at [Organizational Associate Dues](#). Note that the payment of dues in 2024 will also be applied in calendar year 2025, which will result in a conference registration savings of \$200 per associate in both 2024 and 2025.

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## PAYING IT FORWARD

During the hiatus brought about by the immemorable COVID-19 pandemic, NAADAC experienced several challenging losses. Among those was the passing of our dear friend and Professional Associate, Nadine Oka. We also mourned the loss of NAADAC's Board Secretary, Dean Perkins, who succumbed to pancreatic cancer. Then we experienced the departure of Paul Hagle, NAADAC's Executive Director and visionary founder.

We hope many of you can join us in San Diego in November, when we will honor Paul Hagle personally for his vision, dedication, friendship, and leadership.



*Janel Bravo, P.A., and Paul Hagle,  
NAADAC's Founder*

NAADAC sincerely thanks both current and former volunteer faculty and board members and all the professionals from DOJ and the EEOC who have been, and who remain, committed to providing engaging and professional training for many years to come.

Listed below are the current members of NAADAC's Faculty and Board. Thankfully, the cast of characters has largely remained the same, and all are devoted to providing the engaging, scenario-based training that makes NAADAC unique.

- Board President/Faculty: Shelley Ducatt, Ph.D., P.A., ADA Coordinator for Students, Florida State University.
- Board Chair/Faculty: John Wodatch, J.D., P.A., former (retired) ADA Enforcing Agency Faculty, Deputy Assistant Attorney General and Chief of the Disability Rights Section, U.S. Department of Justice.
- Board Secretary/Faculty: James Terry, AIA, APAC-BE, CASp, P.A., CEO, Evan Terry Associates and Corada.com.
- Board Treasurer/Faculty: Larry Phillippe, Ed.D., P.A., Managing Director of Student Disability Services, Texas Tech University.
- Executive Director/Faculty: Brian Nelson, J.D., P.A., former (retired) Director of the Utah Division of Risk Management, former ADA Coordinator.
- Associate Director/Faculty: Phong Nguyen, M.D., Physician in Emergency Medicine for 32 years and Medical Director of the Redlands Community Hospital Emergency Department.
- Board Executive Committee/Faculty: Jim Bostrom, M. Arch., P.A., former (retired) Deputy Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice.
- Board Executive Committee/Faculty: Angela Sisney, Independent Legal Counsel for Costco Wholesale, advising regarding employee accommodation and leave issues.
- Board Executive Committee/Faculty: Janel Bravo, Statewide ADA Coordinator for the Colorado Judicial Department.
- Board Member/Faculty: Catherine Criswell Spear, J.D., P.A., Executive Director, Systemwide Office of

Civil Rights, University of California Office of the President.

- Board Member/Faculty: June Kailes, Disability Policy Consulting Practitioner in health care, emergency management, aging with disability, stakeholder engagement, and hospitality.
- Board Member/Faculty: Lendel Bright, City of St. Petersburg ADA Coordinator and Director of the Community Affairs Division.



Former and current NAADAC Faculty and Board Members (L to R): Irene Bowen, Brian Nelson, Paul Hagle, Dean Perkins, Jim Long, Jim Bostrom (seated), Phong Nguyen, and John Wodatch

Above all, we are grateful to you associates, who bring your questions, experiences, and input to our conferences and generate solution-oriented discussions. It is your leadership, friendship, and commitment that make all the difference to us. We look forward to rubbing shoulders with you again and will do all we can to be worthy of the commendations we have received from past conferences:

“Best Conference for the ADA.”

“This has been the best conference I have attended in years.”

“Another wonderful conference with old friends and new.”

“This was my first time at this conference, and I wasn’t sure what to expect, but it was really helpful and had really great info. Looking forward to returning.”

“I am grateful you are all involved in this valuable, well-designed, thoughtful training conference. Thank you for your passion and commitment.”

“Very well organized, thought out, and presented. Enjoyed the variety of speakers.”

“I appreciate the ways presenters/facilitators help us ask challenging questions to the general ADA best practices/rules. Letting us get a bit off track is when I get the

most out of sessions, because it’s real-life things we are dealing with.”

“Great program. All public institution ADA coordinators and compliance officials should attend.”

“Every year (or session) I attend refuels my passion for what we do to provide equal access for everyone. My passion is that healthcare will reap the same rewards in the future. Thank you to the faculty and board members for your dedication.”

“I feel better about doing my job in dealing with ADA concerns because of attending this conference.”

“I started participating in NAADAC training about 12 years ago, and the training sessions I attended were great. The sessions and faculty have evolved, and they have kept abreast of developments in technology, law, and society. The curriculum of this conference reflected those changes. NAADAC has brought in new and different presenters, as well, who enhanced the training. NAADAC training is definitely worth the costs, time, membership fee, and time away from the office and family.”

**Brian Nelson, NAADAC Executive Director**

## **DECISIONS, ENFORCEMENT ACTIONS & TECHNICAL ASSISTANCE**

The following is a selection of judicial decisions, enforcement actions, and technical assistance guidance that may be helpful to you in your respective roles and responsibilities.

***Kinney v. St. Mary’s Health, Inc.***, 76 F.4<sup>th</sup> 635 (7<sup>th</sup> Cir. 2023). The Court of Appeals affirmed the trial court’s decision dismissing a failure to accommodate claim brought by the director of a hospital’s imaging services. Employee’s requests not to wear a mask at the hospital and to work from home were inconsistent with the essential functions of her job, which included evaluating staff, serving as liaison between radiology professionals and other department leaders, and ensuring facilities and equipment were maintained “to promote efficiency, health, comfort and safety of patients and staff.”

***Laufer v. Acheson Hotels, LLC***, 601 U.S. \_\_\_ (2023). A prolific litigant and civil rights “tester” with physical disabilities and vision impairments sued under Title III, asserting that Acheson Hotels failed to publish information about accessibility on their website. The case was vacated as moot, and the plaintiff was found to lack standing because she had no plans to visit the hotel and suffered no

injury due to the alleged lack of information on the subject website. There remains a circuit split over “tester” standing.

**Hopman v. Association of American Railroads**, No. 22-1881 (8<sup>th</sup> Cir. 2023). Perry Hopman, a conductor for Union Pacific Railroad (“UPR”), requested permission to bring his service dog on board moving freight trains to ameliorate the effects of PTSD and migraine headaches resulting from his prior service as a flight medic in Iraq and Kosovo. UPR denied Hopman’s request on the basis that an unmonitored service dog may result in a direct threat to the health and safety of employees due to the changing, loud, and dangerous conditions inherent in the railroad environment. After its denial of Hopman’s request, UPR promoted Hopman to an engineer. At trial and on appeal, Hopman narrowly asserted that UPR’s denial of his requested accommodation deprived him of enjoying the equal benefits and privileges of employment. Hopman failed to assert that his job performance would improve if he would “not be burdened with the symptoms of PTSD and migraines on the job.” The district court granted UPR’s motion for judgment as a matter of law and rejected Hopman’s claim that “freedom from mental or psychological pain caused by PTSD is a benefit or privilege of employment that [Congress] envisioned employers being required to offer employees.” The 8<sup>th</sup> Circuit Court of Appeals affirmed.

**Pritchard v. American Airlines, Inc.**, No. 4:23-cv-00858-P (N.D. Texas 2023). Nelton Pritchard, a Reservation Home-Based Representative for American Airlines (“American”) requested a modified work schedule because of his cerebral palsy. Though American’s job description listed mandatory overtime as an essential function for all Reservation Home-Based Representatives, American agreed to cap Pritchard’s daily and weekly hours and exempt him from mandatory overtime. Subsequently, American negotiated a collective bargaining agreement with CWA-IBT, Pritchard’s Union, which resulted in a bona fide seniority system that structured scheduling and overtime decisions. American then notified Pritchard that his accommodation would end in 60 days; whereupon, Pritchard initially opted to work an unmodified schedule, as assigned, with no overtime exemption, but ultimately resigned and brought a failure to accommodate claim under the ADA. Pritchard’s claim was ultimately dismissed without prejudice because it was deemed precluded by the Railway Labor Act, which established a mandatory arbitral mechanism for grievances pertaining to the interpretation or application of collective bargaining agreements as to pay, rules, or working conditions.

**EEOC v. Didlake, Inc.** (July 2024 [EEOC Press Release](#)). A government contractor that provides janitorial and maintenance services to federal worksites in Virginia, Maryland, and the District of Columbia agreed to pay

\$1,017,500 and provide programmatic relief in a five-year consent decree. The underlying EEOC lawsuit asserted that Didlake failed to provide effective communications accommodations for deaf and hard-of-hearing employees and maintained a policy of firing employees who requested, but did not qualify, for FMLA leave.

**EEOC v. McLane Northeast** (February 2024 [EEOC Press Release](#)). A jury in Syracuse, New York, awarded \$25,000 in back pay, \$150,000 for emotional distress, and \$1.5 million in punitive damages to a Deaf candidate, whom McLane Northeast refused to interview after learning she was disabled and for refusing to hire her for the two entry-level warehouse jobs she sought.

**EEOC v. Werner Trucking** (September 2023 [EEOC Press Release](#)). A jury in Omaha, Nebraska, awarded \$75,000 in compensatory damages and \$36 million in punitive damages against Drivers Management, LLC, and Werner Enterprises, Inc., because they refused to hire a Deaf applicant who had obtained his CDL and obtained a hearing exemption from the FMCSA. At trial Werner’s Vice President of Safety testified that Werner continues to deny employment opportunities to new Deaf drivers.

**EEOC v. Ranew’s Management Company, Inc.** (February 2022 [EEOC Press Release](#)). Pursuant to a consent decree, Ranew’s agreed to pay \$250,000 to a former employee who was granted leave due to a diagnosis of severe depression and pursuant to his doctor’s recommendation. When the employee presented a release from his doctor and requested to return to work, the CEO said he could not trust the employee and fired him.

**EEOC v. Hollingsworth Richards, LLC.** (January 2022 [EEOC Press Release](#)). When Hollingsworth Richards, LLC, dba Honda of Covington, hired a sales representative, she disclosed that she had ADHD and was taking prescribed medication. Subsequently, an operations manager allegedly directed the newly hired sales representative to stop taking her medication, ordered her to take a drug test, and terminated her employment before receiving the drug test results. In the three-year consent decree, Hollingsworth Richards agreed to pay the sales representative \$100,000 in backpay and damages, and to conduct training, revise policies, provide regular reports to the EEOC, and post a notice affirming its obligations under the ADA.

**Election Website Settlements** (June 2024 [DOJ Press Release](#)). Four counties in the State of Texas agreed to resolve the Justice Department’s findings that the counties violated Title II of the ADA by maintaining election websites that discriminated against individuals with vision or manual disabilities. More specifically, the Department found that the counties’ websites were not accessible to individuals

who were blind or have low vision, or who cannot grasp a mouse, and use screen readers, keyboards or other assistive technology.

**Marriott International, Inc.** (June 2024 [Settlement Agreement](#)). Marriott agreed to adopt a policy requiring Marriott System Hotels to make Mobility Accessible Rooms (including at least one type of Roll-in Shower Room) available for reservation via major online booking entities (“Major OTAs”). Marriott also agreed to ensure that its system would allow hotels to provide up to five Mobility Accessible Room Types to the Major OTAs. Marriott will also provide periodic compliance reports to the Department of Justice.

**Virginia Beach, Virginia.** (April 2024 [Settlement Agreement](#)). In this three-year agreement the City will provide one or more ADA Coordinators, disseminate effective notice thereof, and train appropriate personnel, including engineers, planners, and facility staff, about the accessibility requirements of the ADA. Further, the City agreed to retain a DOJ-approved Independent Licensed Architect (“ILA”) to review and certify all identified deficiencies to the DOJ, the City to bear all costs and expenses of the ILA. Additional measures to which the City agreed were effective communications; emergency management policies and procedures; sidewalk accessibility; web content and mobile apps services and programs; and address accessibility issues in newly constructed and altered facilities.

**The Unified Judicial System of Pennsylvania, et. al.** (January 2024 [Settlement Agreement](#)). The Administrative Office of Pennsylvania Courts agreed to resolve allegations that Unified Judicial System (“UJS”) courts violated Title II of the ADA by preventing individuals under court supervision from taking lawfully prescribed medication to treat opioid use disorder (“OUD”). In addition to agreeing to adopt new policies, to train personnel on the ADA’s antidiscrimination requirements regarding OUD, and to report on their compliance efforts, UJS agreed to pay \$100,000 to named victims of its prior policies and practices.

**Medstar Health, Inc.** (January 2024 [Consent Decree](#)). Medstar entered into a consent decree with the Department of Justice to resolve allegations that it had violated Title III of the ADA through the application of COVID-19 visitor restrictions, which had the effect of excluding support persons for individuals with certain disabilities, and which negatively impacted equal access to medical care, by limiting processing, comprehension, or communication regarding medical issues.

**City of Miami Beach.** (January 2024 [Settlement Agreement](#)). This agreement was reached after the Department of Justice confirmed that the City had conditioned police officer job offers not only on the successful completion of a medical and psychological examination, but also on other non-health related background investigations. Consequently, police applicants could not determine whether the City revoked conditional job offers because of the results of the medical and psychological examinations or because of the other information gathered and reviewed during its background investigations.

**City of Dayton.** (June 2023 [Settlement Agreement](#)). Complainant, an individual with paraplegia who uses a wheelchair for mobility, alleged that he was injured following a “free air sniff” traffic stop, when he was forcibly pulled out of his car, thrown to the ground, handcuffed, and dragged to a police car, notwithstanding his prior insistence that he was a paraplegic, did not have his wheelchair with him, and could be injured if required to exit his car. The arresting officers also rejected the complainant’s request that they call a supervisor. An investigation by the Department of Justice substantiated that the Dayton Police Department violated Title II of the ADA.

**The Regents of the University of California (Regents).** (December 2022 [Consent Decree](#)). The National Association of the Deaf filed a complaint alleging that thousands of free online courses, lectures, and other campus events in video and audio formats hosted by the University of California at Berkeley were inaccessible to individuals who are deaf or hard of hearing in violation of Title II of the ADA. In its investigation, the Department of Justice determined that certain online content was not accessible to individuals with hearing, vision, and manual disabilities. Among other stipulations, Regents agreed to implement measures within established timelines to ensure its online audio and video content conformed with WCAG 2.0, Level AA and further consented to designate an employee as the Web Accessibility Coordinator for Online Content on UC Berkeley Platforms.

#### **EEOC Technical Assistance/Guidance Publications.**

- [Hearing Disabilities in the Workplace and the Americans with Disabilities Act](#)
- [ADA Requirements for Workers with Hearing Disabilities](#)
- [Visual Disabilities in the Workplace and the Americans with Disabilities Act](#)