

WORKPLACE ACCOMMODATIONS POLICY HIGHLIGHTS 1.4

June 2003

Overview

The fourth issue of the Workplace Accommodations Policy Highlights draws attention to the efforts of city and state governments, along with the efforts of the federal government, to establish programs in support of the employment goals set forth by the Americans with Disabilities Act (ADA). From offering disability sensitivity training courses, to providing funding opportunities to groups and individuals, government at all levels is working to increase and enhance employment opportunities for people with disabilities. Research in the fields of disability and employment has recently returned significant results, including a new study that is the first of its kind to examine attitudes toward people with intellectual disabilities across cultures. As in past issues, new technologies, and the efforts of companies to develop new approaches to the development of technologies, are emphasized for their ability to assist people with disabilities in reaching their employment goals.

Legislative/ Regulatory Activities

Battle Continues Over Hand-Weeding in California

04.30.03: Farm worker advocates in California have begun a campaign to convince the California Division of Occupational Safety and Health that hand-weeding is damaging to workers' backs and should be eliminated from most fields. "The petition says crop weeding should be done with tools with handles longer than 4 feet to protect field workers from irreparable spinal damage. Violators would be subject to a minimum fine of \$500 per employee for each violation." California would be the first state in the nation to limit this agricultural practice. In 1975, the state banned the use of short-handled hoes, but farm worker advocates say that until hand-weeding is banned, these tools will continue to be secretly used by farms across California. According to California growers, hand-weeding is very expensive and is only used in specific circumstances when other agricultural practices would be ineffective. Growers say that in many circumstances there are no reasonable alternatives to hand-weeding. When long-handled tools are used, they are imprecise and damaging to crops. Organic growers in particular could be subject to economic hardship, as they have limited options for herbicides and weed control. Thus, from the perspective of public policy, there is a tension between the interests of stakeholders such as the organic growers and the interests of workers whose health, when engaged in hand-weeding, may be impaired. If an administrative limit on hand-weeding cannot be reached, farm worker advocates have received commitment from a legislator to introduce another hand-weeding bill (there have been two prior). The Rural Legal Assistance Foundation would also consider a lawsuit to accomplish a ban on hand-weeding.

[<http://www.sacbee.com/content/business/agriculture/story/6541836p-7492370c.html>]

[http://www.cfbf.com/agalert/2003/04_02_03_b_aa.aspx]

California Budget Crisis Threatens Access to Assistive Technology

06.01.03: Governor Gray Davis and the California state legislature have the task of finding a way to cover the state's \$38 billion deficit. One proposal is to cut the budgets of programs that provide assistive technologies (AT). Medi-Cal, the state's health care system for the poor and disabled, is set to undergo a \$1 billion cut. Part of the billion dollars would come from the elimination of coverage for Durable Medical Equipment (DME), which includes basic assistive technologies such as diabetic testing strips, wheelchairs, ventilators, and hearing aids. California has a constitutional requirement to balance its budget every year. Therefore, if cutting funding to state-sponsored programs is not approved, the state must raise taxes to cover its budget. Governor Davis is proposing a series of tax increases "including the reinstatement of a tax bracket on the top 10% wealthiest people in the state, a half-cent increase in the sales tax, and a cigarette tax." Democrats are backing Davis on the tax increase, but Republican support will most likely require that Democrats endorse reform measures to the state's Worker's Compensation Program. Reductions in workers' compensation requirements could make it more difficult for an injured worker to get the assistive technology he or she needs. Governor Davis has also proposed the state borrow approximately \$11 billion from the financial industry to cover the deficit. [<http://www.atnet.org/news/jun03/060102.htm>]

Disability Sensitivity Training Offered to Georgia Residents

06.16.03: A website providing a course on disability sensitivity training is now available to all residents of Georgia. The course is tuition-free and is provided by the Governor's Council for Developmental Disabilities and Georgia Disability Advocate Consulting Group, Inc. Objectives of the course include developing awareness of the abilities of persons with disabilities, explaining techniques and strategies to use when interacting with persons with disabilities, identifying the keys to effective communication with a person with a disability, and describing the key elements of the Americans with Disabilities Act (ADA) and the Air Carrier Access Act (ACAA). The workshop is appropriate for all audiences, including managers, supervisors, professionals, and line staff. To meet individual training objectives, course participants can customize their training by choosing areas of the course that have particular relevance to them by using one of three training roadmaps: the Basic, Intermediate, or Advanced Skills Roadmap. Because it encourages interaction between course participants and volunteers from the disability community, the course also provides an opportunity for course participants to expand their circle of contacts to include people with disabilities. Moreover, by increasing the sensitivity of employers to the challenges faced by people with disabilities, the likelihood of assistive technologies and universal design to achieve integration of people with disabilities into the workplace is enhanced. The course is available online at <http://www.disabilitylearningservices.com>. [*PR Newswire, 06/16/2003, State and Regional News*]

The Chicago Mayor's Office for People with Disabilities (MOPD) Sponsors Free, Local Disabilities Act Workshop for Small Businesses

06.13.03: In June 2003, the Chicago MOPD sponsored a workshop offering the opportunity for small business owners to interact with representatives from the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Justice (DOJ) Disability Rights Section. The workshop's goal

was to help small business owners answer questions pertaining to the Americans with Disabilities Act (ADA) and how the ADA affects the employment and public accommodation of people with disabilities. Other topics included in the workshop were “job interviews, workplace accommodations, performance, conduct and safety issues, and financial and other incentives for hiring individuals with disabilities.” The workshop was a product of Chicago Mayor Richard M. Daley’s Task Force on the Employment of People with Disabilities, created to develop a “coordinated and aggressive city-wide plan to bring more people with disabilities into the workforce.”
[<http://www.eeoc.gov/press/6-13-03.html>]
[<http://www.ci.chi.il.us/Disabilities/>]

U.S. Department of Labor (DOL) Announces More Funding Opportunities

07.01.03: In support of its goal of increasing employment opportunities for people with disabilities, the U.S. DOL’s Office of Disability Employment (ODEP) annually awards grants and contracts to groups and individuals. The ODEP recently announced four funding opportunities in addition to the previously announced WorkFORCE Action Grant Initiative and Home Modification Grants. The grants are listed as Customized Employment Grants, High School/High Tech State Development and Implementation Grants, Innovative State Alignment Grants for Improving Transition Outcomes for Youth with Disabilities Through the Use of Intermediaries, and ODEP/Center for Faith-Based and Community Initiatives Intermediary Grants for Mentoring Youth with Disabilities. More information on these grants, as well as information on previously announced funding opportunities, is available at [<http://www.dol.gov/odep/programs/program.htm#grants>]. To date, ODEP has awarded more than \$24 million in grants and contracts. Solicitations for new grant proposals are published in the Federal Register and announced on ODEP’s website [<http://www.dol.gov/odep>]

Judicial Activities

Fire Captain Denied Disability Pension for Post-Traumatic Stress Disorder

06.20.03: Fire Captain Linda Brown of Omaha, Nebraska was, for a second time, denied early retirement and disability pension relating to post-traumatic stress disorder and depression. Brown claims her condition resulted from harassment from white male co-workers. Moreover, during the first proceedings, four medical professionals found her unfit to return to work. In these proceedings, the pension board chose to rely on the testimony of another medical professional who said that Brown’s illness was short-term. Brown’s psychiatrist reports that her condition has worsened since returning to work after the first hearing in September. She has migraine headaches, chest pains, and anxiety attacks when interacting with co-workers. Brown renewed her request after the pension board granted disability pension to Officer Todd Sears in May 2003 for his post-traumatic stress disorder after killing a man in the line of duty. [*Omaha World Herald*; 06/20/03, News P. 4b]

Sacramento Sidewalks to See Renovation

06.25.03: Sacramento residents using wheelchairs and residents having impaired vision filed a class-action lawsuit against the city in 1999, claiming that it failed to comply with the Americans with Disabilities Act (ADA) by having inaccessible sidewalks. Although the city's attorney claimed that sidewalk renovation would impose an undue financial burden on the city, Sacramento lost the initial legal finding. The city filed an appeal with the U.S. Supreme Court. In June 2003, Sacramento city officials and an attorney for the disabled community reached an agreement, ending four years of litigation over the accessibility of the city's sidewalks. The tentative settlement calls for the city to drop its appeal to the U.S. Supreme Court and "dedicate 20 percent of designated transportation funds over the next 30 years to improve sidewalks, crosswalks and curb ramps." The settlement also requires that the city's efforts be monitored, and that Sacramento's ADA Advisory Commission make recommendations about planned projects. Details of the settlement have been approved by the city, but the case will not be officially settled until the agreement is approved in federal court. [http://www.sacbee.com/content/news/courts_legal/story/6917991p-7867493c.html]

Supreme Court Agrees to Hear Courtroom Accessibility Case

06.24.03: The state of Tennessee has appealed to the U. S. Supreme Court a ruling from the United States Sixth Circuit Court of Appeals that would leave the state open to a lawsuit by two residents who use wheelchairs and who were unable to gain access to state courtrooms. The state claims immunity from suit under the central provision of the Americans with Disabilities Act (ADA), citing the decision in *University of Alabama v. Garrett* where the court held that states are immune from suit by their employees under the provision of the ADA that protects state employees from discrimination because of disability. The Sixth Circuit ruled that "while the Garrett decision meant that states could not be sued for violating the equal protection rights of people with disabilities, states remained liable for suit for violating rights protected by the Constitution's guarantee of due process. Access to court was such a right, the appeals court held." One plaintiff, Beverly Jones, is a certified court reporter who needs access to courtrooms to fulfill the duties of her job. She has been unable to enter four county courthouses where lawyers had hired her to record the proceedings. According to her legal complaint, Tennessee has 23 counties with inaccessible courthouses, despite the requirement of Title II of the ADA that public "services, programs, or activities" be made accessible to people with disabilities. The question before the Court is: Did Congress have the constitutional authority to require states to pay money damages for violations of Title 2 of the ADA?"

[<http://www.accessiblesociety.org/topics/ada/tennvlane1.html>] In the decision by the United States Sixth Court of Appeals, the judges wrote that based "on the record before Congress in considering the Americans with Disabilities legislation, it was reasonable for Congress to conclude that it needed to enact legislation to prevent states from unduly burdening constitutional rights, including the right of access to courts."

[<http://pacer.ca6.uscourts.gov/cgi-bin/getopn.pl?OPINION=03a0010a.o6>]

However, if the U.S. Supreme Court overturns the ruling from the United States Sixth Court of Appeals, this would narrow Title 2 of the ADA in its suggestion that Congress did not have the power to enact many of the core provisions of Title 2 of the ADA.

[*The New York Times*; 06/24/2003, Section A, P. 27; Column 1; National Desk]

Wisconsin Court of Appeals Clarifies Test for Permanent Total Disability (PTD)

The Wisconsin Court of Appeals has reversed a Labor Industry Review Commission decision that required employees claiming PTD to show that they had made "reasonable efforts to obtain suitable employment." Ralph E. Beecher worked at Outokumpu Copper Kenosha, Inc. for 29 years, and in April 1997, developed low back pain because of his assignment to a new task. Beecher sought medical treatment and underwent three rounds of back surgery to correct the problem. Beecher returned to light-duty work in April 1998. Outokumpu Copper soon moved its operation out of Wisconsin and did not offer a light-duty position to Beecher, who would have relocated to remain employed with the company. Beecher filed for worker's compensation, asking for Temporary Total Disability (TTD) benefits from October 1998 through May 1999, and for PTD and payment of medical expenses thereafter. An Administrative Law Judge awarded the compensation to Beecher, but the Labor Industry Review Commission (LIRC) reversed the award after Outokumpu Copper appealed. The LIRC claimed Beecher had not established a *prima facie* case for PTD by showing that he had conducted a job search and was unable to find work with his physical limitations. The court of appeals reversed the LIRC decision claiming that an extra burden of proof had been placed upon employees to show that they are permanently disabled. In *Beecher v. Labor Industry Review Commission*, the court of appeals noted that the plaintiff "had suffered his injury working at Outokumpu Copper, had worked there 29 years, had a ninth-grade education and poor academic achievement, wasn't a candidate for retraining, and based on doctor-imposed work restrictions, was permanently and totally disabled." The holding by the court means that employers will have the burden of proof when attempting to challenge a PTD worker's compensation proceeding. [*Wisconsin Employment Law Letter*; 06/03, Vol. 12, Issue 6]

Studies/Reports/ Publications

American Bar Association (ABA) Survey Reports 2002 Employment Decisions Under the Americans with Disabilities Act (ADA)

06.19.03: The ABA recently released the results of its sixth annual survey of employment cases under Title 1 of the ADA. The outcomes of the survey, published in the ABA's *Mental Health and Physical Disability Law Reporter* [(v. 27, n. 3 (May/June 2003))], show a continuation of the pattern of employers prevailing in 94.5 percent of 327 federal cases. Employers did not manage as well when it came to charges resolved before the Equal Employment Opportunity Commission (EEOC), with courts ruling in the favor of employers in 78.1 percent of these matters. The study "examined both court decisions and EEOC determinations in 2002 concerning claims pursued under Title 1 of the ADA." Title 1 bars employers from discriminating against a "qualified individual with a disability" because of that disability. When broken down into cases involving substance abuse or a mental disability, survey results showed an increase in employee wins from 2001 (1.4%) to 2002 (2.7%). The ABA states that this small increase may be due, in part, to the U.S. Supreme Court's decision in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, expanding the definition of the term "major life activities" in determining who is disabled under the ADA. An important aspect of the results of this survey is its demonstration of the different results among the 13 circuit courts, particularly in the year-to-year results in individual courts. The U.S. Supreme Court heard four Title 1 cases last year, resolving only one of the three, and ruling in favor of the employer. [<http://www.abanet.org/disability>]; [*Chicago Daily Law Bulletin*; 6/19/2003, P. 1]

O'Brien, Ruth (2001). *Crippled Justice: The History of Modern Disability Policy in the Workplace.* **The University of Chicago Press; 1st edition. Chicago, IL.**

10.15.01: "*Crippled Justice*, the first comprehensive intellectual history of disability policy in the workplace from World War II to the present, explains why American employers and judges, despite the Americans with Disabilities Act, have been so resistant to accommodating the disabled in the workplace. Ruth O'Brien traces the origins of this resistance to the postwar disability policies inspired by physicians and psychoanalysts that were based on the notion that disabled people should accommodate society rather than having society accommodate them. O'Brien shows how the remnants of postwar cultural values bogged down the rights-oriented policy in the 1970s and how they continue to permeate judicial interpretations of provisions under the Americans with Disabilities Act. In effect, O'Brien argues, these decisions have created a lose/lose situation for the very people the act was meant to protect. Covering developments up to the present, *Crippled Justice* is an eye-opening story of government officials and influential experts, and how our legislative and judicial institutions have responded to them."
[\[http://www.press.uchicago.edu/cgi-bin/hfs.cgi/00/14289.ctl\]](http://www.press.uchicago.edu/cgi-bin/hfs.cgi/00/14289.ctl)

Special Olympics Releases Findings of International Study of Attitudes toward People with Intellectual Disabilities

06.21.03: *The Multinational Study of Attitudes Toward People with Intellectual Disabilities* was presented at the 2003 Scientific Symposium, held June 18-20, in Belfast, Northern Ireland in conjunction with the 2003 Special Olympics World Summer Games. Special Olympics and the Center for Social Development and Education collaborated with the Gallup Organization, Research and Evaluation Services of Northern Ireland and Center for Survey Research on the creation of the survey. The study was conducted in 10 countries across the world, with approximately 8,000 respondents. The findings of the study scientifically validated what many had previously believed; that individuals with intellectual disabilities are often excluded from mainstream society due to misconceptions, ignorance and fear. The study documents how the general population across cultures views persons with intellectual disabilities and their beliefs about how persons with intellectual disabilities should fit into work, school, and community. An overview of the results from the survey regarding the employment of persons with intellectual disabilities is as follows: 76 percent of people surveyed believe that the lack of job training programs for persons with intellectual disabilities presents a major obstacle towards their inclusion in the workplace. 61 percent believe that the negative attitudes of other workers present a major obstacle to their inclusion in the workplace. 49 percent of respondents believe that persons with intellectual disabilities either should not work, or should work in a workplace only for people with disabilities. 50 percent believe that inclusion of people with intellectual disabilities in the workplace will reduce the productivity of the other workers. The study revealed the presence of negative attitudes toward persons with intellectual disabilities, both within and across the countries surveyed. The survey suggests that the general population lacks an appreciation for the abilities of people with intellectual disabilities, and therefore has low expectations of how much people with mental disabilities can achieve. Special Olympics President Timothy Shriver said that his hope is that the results of the study "will serve as the catalyst for a real and lasting change in the public's attitudes toward the inclusion of individuals with intellectual disabilities in every aspect of society in every country on the planet."

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[http://www.specialolympics.org/Special+Olympics+Public+Website/English/Press_Room/Global_news/Multinational+Study+of+Attitudes.htm]

U.S. Office of Personnel Management (OPM) Releases Guide on Government-Wide Telework Programs

05.08.03: *Telework: A Management Priority – A Guide for Managers, Supervisors, and Telework Coordinators* is a handbook issued to government agencies by the U.S. OPM. “Telework-also referred to as telecommuting, flexiwork, and flexiplace-is an alternative work arrangement for employees to conduct all or some of their work away from the primary workplace. This concept can be applied to a variety of work experiences. The work location might be a residence, a telecenter, an office closer to the employee's residence, or another acceptable location.” The handbook offers guidance and support for increasing the use of the Telework option, and lists the factors needed for a successful Telework program. OPM Director Kay Coles characterizes Telework as “an important and attractive work option for the federal government and its employees.” According to Coles, Telework provides flexibility, benefits [U.S.] transportation systems, conserves resources, attracts prospective employees, and encourages current employees to remain in federal service. Cole concludes that the Telework option promotes President Bush’s New Freedom Initiative by “providing greater access to the workplace for people with disabilities.”
[<http://www.opm.gov/pressrel/2003/EB-telework2.asp>]

Other Activities & Items of Interest

Hearing Protection Devices (HPD) Critical to Prevent “#1 Hidden Disability in North America”

03.28.03: Hearing protection is a critical aspect of hearing loss prevention programs in industry. However, according to the National Institute of Occupational Safety and Health (NIOSH) “we are seeing more hearing loss than we would expect if (hearing conservation) programs were effective.” The World Health Organization (WHO) calls work-related noise-induced hearing loss (NIHL) “the #1 hidden disability in North America.” Many factors contribute to hearing loss, including exposure to oxotoxic chemicals while on the job, and exposure to boom cars (cars with extremely powerful stereos played at high volumes) and firearms while off-the-job. A key factor in industry that has contributed to hearing loss is the shift in the 1980s away from noise reduction as a hearing loss prevention strategy. Industry instead moved to the cost-effective technique of hearing conservation. Hearing conservation consists primarily of noise monitoring, audiometric testing, and hearing protection for noise control. Industry believed that this combination of hazard assessment, personal protective equipment, and medical surveillance would provide workers with the same hearing protection as noise reduction, but at a much lower cost. The epidemic of hearing loss cited above suggests that hearing conservation techniques are not as effective as noise reduction in preventing hearing loss. HPDs are evaluated for performance based on an idealized laboratory protocol. In practice, the devices are much less effective. While comfort and ease of use are not considerations in laboratory HPD evaluations, they are essential to effective HPD use. An uncomfortable HPD is more likely to be removed while in noise. In addition, workers often remove their HPD to hear better their machines, or to better communicate with co-workers. This can be an indication of

overprotection, when the HPD provides too much protection for the work environment. HPD manufacturers and hearing health professionals are working on ways to resolve these issues. For example, new methods are being developed to permit simple individual testing of earplugs in the field. The individual evaluation process also makes workers aware of fitting techniques that improve the effectiveness of their HPDs. HPD manufacturers are addressing the overprotection issue by making HPDs that "provide a high fidelity sound with reduced or limited attenuation, making the HPD more 'natural sounding.'"

[http://www.ishn.com/CDA/ArticleInformation/features/BNP_Features_Item/0,2162,95483,00.html]

IBM Engineer Aims for Universal Design That's Integrated and Equal

07.02.03: IBM software engineer T.V. Raman conducts research in the field of speech technology in the hopes of making the Web and other technologies accessible to people with disabilities. Raman, who lost his eyesight because of childhood glaucoma, feels that products should be designed with many different types of users in mind, rather than retrofitting products that were not properly designed to work for people with disabilities. Raman is part of a small community of engineers working to "create new technologies that will make the Web much more responsive to the needs of all users. He and other engineers are working on standards that will be used to form the framework for the next generation of Web applications." The objective of Raman's work is to allow Web developers to create a single piece of content that can take on different forms (text, audio, and video) to accommodate a wide variety of users. Raman conducts his research in conjunction with the World Wide Web Consortium (W3C), headed by the Web's original creator, Tim Berners-Lee. The W3C is the international standards-setting body that works to make sure the Web develops in a "cohesive and relatively seamless manner." In its early days, the Internet was primarily text-based and most of it was accessible only through certain types of text-to-speech software. However, as the Internet evolved, graphics, audio, and video dominated text-based formats, making it less accessible. Raman is currently working on XML, or Extensible Markup Language, which is a system of encoding Web content so that programs can work together more intelligently. "Once content is written in XML, it can be displayed as plain text, audio, or graphics." XML is a useful design technique since it helps accommodate people with disabilities, as well as helping users adapt to different applications, needs, devices, cultures and languages. Raman, along with other advocates of XML, believes that its adoption will lead to better products and technology for everyone. For more information on Raman's work, see <http://emacspeak.sf.net/raman>. For more on Web accessibility, see <http://www.w3.org/WAI>. [*San Jose Mercury News*; 07/02/2003]

Microsoft Considers Accessibility in Development Process

07.01.03: Microsoft Corporation announced that its soon-to-be-released line of 2003 products will include "new accessibility improvements and will be compatible with a broad range of assistive technology tools." Section 508 of the Rehabilitation Act requires government agencies to buy only electronic and information technology that is accessible to people with disabilities. Microsoft claims that helping their government customers meet Section 508

responsibilities has renewed their commitment to designing products accessible to all people. The company maintains strong partnerships with government and industry to make certain that accessibility is a factor considered throughout the product development process. In July 1995, Microsoft issued a policy requiring that every employee take responsibility for ensuring that products and services are accessible to all users. Passing test copies of software on to more than 15 companies directly involved in the development of assistive technologies is one way Microsoft receives feedback on its potential products. This process also allows the companies that test the products to design their own products to be compatible with those of Microsoft. Product changes that consumers will see in 2003 include extensive changes to Microsoft Office System, and the addition of Microsoft Office FrontPage 2003 Accessibility Checker, a tool that will allow users to check the accessibility of Web content created in FrontPage. [<http://www.fcw.com/fcw/articles/2003/0630/web-micro-07-01-03.asp>]

Revolutionary Micro-Technology Provides Access to Telecommunications for Hearing Impaired

06.15.03: Jo Waldron, Chairperson and CEO of Able Planet, Inc., unveiled Able Planet's micro-technology designed to provide access to telecommunications for people with hearing disabilities around the world. Waldron invented the patent-pending technology, with technical guidance and assistance by hearing industry veteran Dr. Joan Burleigh. 34 million Americans and 500 million individuals worldwide with mild to severe-to-profound hearing loss will now have "the opportunity to effectively communicate with others via telephone as well as hear speech more clearly using a hands-free system and other communications devices." Factors such as performance, size, and cost distinguish the Able Planet technology from traditional hearing aid compatible (HAC) technology. Waldron and Burleigh realize the difficulties faced by millions of hearing impaired Americans who do not have access to voice telecommunication. According to Waldron, "simple daily communication, such as calling a friend, ordering room service, understanding a television program or learning in a computer lab is incredibly frustrating and most of the time, impossible for people with hearing loss." The micro-technology, measuring only 1 mm, is so small that it fits in standard telephones or hands-free headsets such as those used with cellular phones, cordless phones, multi-media computers and laptops, CD players and more. Able Planet's technology creates audio within a hearing aid and an electronic device such as a phone or headset, resulting in amplified speech, greater clarity and an enhanced audio signal. Once installed, the technology is not visible to others and can be used by anyone, regardless of hearing ability. Hyatt Hotel Corporation is the first corporation with a commitment to use Able Planet's technology. Companies may find that the adoption of Able Planet's micro-technology will assist them in meeting the federal New Freedom Initiative guidelines and compliance standards by eliminating barriers to access of information. The invention of this micro-technology is part of Able Planet's mission to "develop multiple technologies to benefit people with different disabilities, providing equal access and opportunity in employment, education, travel and entertainment." [<http://atnet.org/news/jun03/061505.htm>]

Universal Design Becomes Architect's Personal Reality

06.16.03: Architect and designer Michael Graves recently completed 10 weeks at the Kessler Institute for Rehabilitation where he spent his time relearning how to live and work, and modifying his ideas of day-to-day functionality. In April 2003, Graves, 68, was paralyzed from the waist down as a result of a virulent sinus infection. Graves is in the process of retrofitting his own home in Princeton, New Jersey, and because his current office is not wheelchair accessible, plans to cut back on the 30 or so lectures he gives each year and meet with clients at a new space designed to be wheelchair accessible. These challenges have motivated Graves to introduce universal design concepts into both his own living space and the spaces he designs for his clients. Graves is the winner of the 2001 Gold Medal of the American Institute of Architects and his work ranges from a line of housewares for retailer Target, to buildings for the U.S. Department of State, a Manhattan skyscraper, and the headquarters for Team Disney in Burbank, California. Graves's experiences in retrofitting his home and meeting with his clients suggest that issues of universal design cut across the division often drawn between private and public space. For this reason, policies governing the use of universal design in public places, including the workplace, should incorporate the insights gleaned from its use in contexts such as home design

[*New York Times*; 06/12-2003, House and Home/Style Desk, Section F, P. 1]
[<http://www.njit.edu/publicinfo/newsroom/graves.php>]

Visually Impaired Net Users Frustrated with Spam Blocker Efforts

07.02.03: Many companies, including Yahoo, Microsoft, and VeriSign, are attempting to prevent e-mail abuse by requiring users to pass a verification test in order to access their services. Users type into a Web form a few characters that "appear on the form in a guise that prevents a computer or software robot from recognizing and copying them." The technique is used to prevent software bots from signing up for Web-based e-mail accounts used to launch spam, and from obtaining e-mail addresses from online databases. Although praised for its ability to reduce the amount of unwanted spam, legal experts say the practice could expose companies to lawsuits filed under the Americans with Disabilities Act (ADA). Visually impaired Net users are unable to pass the visual verification test and while some Websites offer work-arounds (alternative verification tests for the visually impaired) these work-arounds are less than perfect and not universally implemented. The popularity of the visual test, and the difficulty of using current work-arounds, have resulted in criticisms from disability advocates and generated discussions amongst working groups within the Worldwide Web Consortium's (W3C) Web Accessibility Initiative on how to standardize an alternative. Some Web companies consider themselves immune to legal requirements that their Webpage must accommodate visually impaired users. This assumption is based on an October 2002 ruling that "the ADA did not apply to Web sites, and a May 15, 2003 ruling by a federal court that distinguished websites from the 'public accommodations' that fall under civil rights statutes." However, many in the legal community believe that the courts will ultimately hold that the ADA applies to all Websites. The American Foundation for the Blind's Janina Sajka acknowledged that "suing implementers of visual verification might require asking Congress to pass additional legislation mandating accessibility for the disabled."

[<http://zdnet.com.com/2100-1104-1022814.html>]

Yamaha Video-Computer Combination has Pianists Playing a Happy Tune

06.24.03: Yamaha has developed a new approach to the diagnosis and treatment of repetitive stress injuries. The Yamaha Disklavier, a \$57,000 grand piano synchronized to a videocamera and laptop computer, is specific only to pianists, but "its development opens the possibility of more exact methods of handling other stress injuries, like those caused by computer keyboards and violins." Gene Rohrer, a professional accompanist, developed focal dystonia because of repetitive movement and mental stress. Focal dystonia is the loss of movement of an individual limb or finger. Rohrer lost movement in the third finger of his right hand and uses Disklavier and its accompanying software to see each time his finger drags a key and each time his ring finger moves in to compensate. Rohrer can hear Disklavier play back the notes exactly as he did, while watching on the laptop the video of his hands playing the Disklavier. "Seeing his fingers from below as he hears how he played the notes helps him visualize the faults he needs to correct." Focal dystonia is a potentially career-ending problem for pianists, but with the help of Disklavier's technology, it can be better controlled.

[*New York Times*; 06/24/2003; Section F; Page 5; Column 1; Health & Fitness]



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Workplace Accommodations Policy Highlights 1.4

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The Office of Technology Policy and Programs (OTP) produces a monthly newsletter, *Workplace Accommodations Policy Highlights*, for the purpose of identifying policy, regulatory framework and market factors that can be useful in reducing barriers to integrating people with disabilities into the workforce. These monthly highlights support the Center's other research efforts and provide people with disabilities and industry with a centralized source of information supportive of the principles of the ADA and other regulations whose intent is to promote fairness and equity for people with disabilities.

The primary objectives of the Rehabilitation Engineering Research Center on Workplace Accommodation, a federal program funded by The National Institute on Disability and Rehabilitation Research (NIDRR), U.S Department of Education, are to identify, design, develop, and promote new assistive devices and universally-designed technologies that will enable all individuals, and particularly those with disabilities, to achieve the greatest degree of independence and integration in the workplace. To accomplish its mission, the RERC engages in a comprehensive program of research, development, training, and information dissemination.

For further information on items summarized in this report, or if you have items of interest that you would like included in future editions, please contact the editor, Lynzee Head (lynzee.head@gcatt.gatech.edu) or Andrew Ward, PH.D., MPH, Project Co-Director, Workplace Accommodations Policy Initiatives (RERC) (andrew.ward@gcatt.gatech.edu).