



# THE MAYOR'S OFFICE ON AMERICANS WITH DISABILITIES

## ADDRESSING CITIZENS' CONCERNS

VOLUME 7 ISSUE 4 DECEMBER 2011

### 2011 Disability Awareness Mentoring Day



November 2011, the City of Birmingham was a proud host participant for the 2011 Disability Awareness Mentoring Day. The Alabama Department of Rehabilitation Services partnered with The Mayor's Office of ADA where thirty students with special needs from around the Jefferson County area were partnered with staff volunteers in city departments, and its agencies. The volunteer experience enabled students to be exposed to a real on the job working environment in the students' area of expressed interest.

Upon completion of the tours, the students gathered in the city council chambers to share what they had learned with the whole group. It was evident by some of the comments that the student's gained a better perspective on what it takes to be a meaningful part of public service and how everything comes together to help assist the citizens of Birmingham. The participants showed an amazing interest and are all looking forward to next year's visit. They were able to leave with new career ideas and a broader sense of what their future holds despite having a disability.

The City of Birmingham is proud of its partnership with the Alabama State Department of Rehabilitation Service and look forward to continuing this effort to enhance the lives of youth while providing opportunities for personal growth and development.

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## Addressing Citizens' Concerns

### Independent Living Resource Center Breaks Ground on New Facility

Known for a number of services, most notably their "Home Modification Initiative," a service that assists people with disabilities by making their homes more accessible by removing architectural barriers, building accessible ramps, and widening doorways, the Independent Living Recourse Center (ILRC) assists in helping those of the disabled population in need. The (ILRC) will continue to offer these great services, but soon will offer them from a new location.

The Independent Living Recourse Center is currently located in Birmingham's South Side, but on November 3, 2011, they broke ground at their future site in the North Side of Downtown Birmingham. Among those that attended the groundbreaking ceremony were Dan Kestler, head of the Independent Living Recourse Center of Birmingham, Graham Sisson, head of the Governor's Office on Disabilities, a number of Birmingham City Council members, and Mayor William A. Bell, Sr.

In addition to being fully accessible, the new facility will also have a museum dedicated to disabled individuals who have gone on to do extraordinary things despite any obstacles. Because the Civil Rights Laws paved the way for the Americans with Disability Act, it is quite fitting that the new home of the Independent Living Recourse Center, an institution at the forefront of helping the disabled community, will be seated in a fitting location, the Civil Rights District.



### Voice Recognition Technology Brings Accessibility to Employees



Mark Henderson (Left) explains the phone's accessible features to Scott Jent.

Birmingham goes extra mile to insure accessible accommodation within its workforce. The same amount of tenacity that goes into making sure citizens have access to services offered by the city also goes into assuring that city employees with disabilities are provided the accommodations needed to perform their duties. Scott Jent, a City of Birmingham employee with the Department of Public Works, was born with a hearing disability. He has 100% hearing loss in his left ear and 40% in his right. To communicate, he can read lips and also utilizes American Sign Language. However, these forms of communication do not help in his day-to-day communication.

The staff in the Public Works Department communicates by using two-way radios but because of Mr. his level of hearing, he can't hear when one of his co-workers is trying to reach him. To communicate with his fellow coworkers, he keeps his City issued phone set to vibrate when he is being contacted. To respond, the phone utilizes voice recognition technology that allows him to

speak into the phone as it writes what's been said. This is just one effort, on the City's behalf, to insure accessibility and ADA compliance in the City's workforce.

## Para Transit Services Not Required to Make Reasonable Accommodations



Para transit providers are not required to make reasonable accommodations for users, the 9th U.S. Circuit Court of Appeals ruled. While the Department of Justice requires public entities under its authority to make modifications to their programs for individuals with disabilities, the Department of Transportation has no such requirement for entities subject to its

regulations, such as par transit providers. An Oregon resident with a balance disorder used the par transit services of the local public transportation system (which included buses and cars) because her impairment left her dizzy and nauseous on the main bus system. She submitted a request that the transportation provider schedule her rides in a car only, as an accommodation for her disability. Their buses, she said, aggravated her condition. She included a doctor's note stating that she had experienced several "bus-associated traumas." The system denied her request; she filed suit. The judge granted summary judgment for the transit service, and it was appealed.

On appeal, the 9th Circuit said the main question was whether the Rehabilitation Act and the Americans with Disabilities Act required the provider to follow Department of Justice regulations requiring public entities to make reasonable modifications in their services when they are necessary to avoid disability discrimination. The regulations implement Title II of the ADA and apply to the services of state and local governments.

**Title II, however, has a separate section for transportation providers, over which the Department of Transportation has regulatory authority. It requires that par transit service be comparable to public transportation services provided to individuals without disabilities. It does not address reasonable accommodations.**

Plaintiff argued that this implied DOJ regulations should be followed; the court disagreed. Merely because the DOT's regulations are silent on accommodation does not imply the court should apply rules written by a different agency for a different part of the law. Application of the DOJ's reasonable accommodation regulation in this instance would effectively mean that DOJ is requiring transportation authorities to provide different types of vehicles, the court said, which would exceed the authority granted it by the ADA. "We decline to impose a requirement ... that would upset the balance of authority that Congress has carefully allocated between the [DOJ] and [DOT]," the court said. Plaintiff then pointed out that the Secretary of Transportation and the Federal Transit Administration has, in recent years, said that it is "assumed" that the DOJ's reasonable modification requirement is applicable to transit systems. The court, however, called the interpretation "plainly erroneous and that until the Secretary formally promulgates regulations, (transit providers are) not required to follow them". Discrimination claim was denied (*Boose v. Tri-County Metropolitan Transportation District of Oregon*, WL 4020731 (9th Cir. Nov. 23, 2009).



**We are on the web!**

**Mayor's Office On  
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**The ADA Committee meets every  
Second Friday, 10:00 AM 2nd Floor  
City Hall Rm. 215**



## **ADA Advisory Committee**

Chair – John Duplessis—Easter Seals, Navigator Program  
Vice Chair - Lorne Kelly—MAX Transit (VIP Para transit)  
Secretary– LaWanda East – Pastor, King of Faith Outreach Ministry

### **Committee Members**

Xaveria Anderson- Ms. Wheelchair Alabama 2007  
Trisston Burrows - Ms. Wheelchair America/Alabama 2005  
Evon Black – Alabama Department of Rehab Services  
Twanna Carter-VA Medical Center  
Shirley Hollis-Manager, Birmingham Parks & Recreation Centers  
Tina K. Hughes – Chronic Illness Advocacy  
Dan Kessler-Director, Independent Living Resources, Birmingham  
Mike Norris- Independent Living Resources/Greater Birmingham  
Charles Priest - Director, Alabama Head Injury Foundation  
Alice Sanders-United Cerebral Palsy  
Graham Sisson- ADA State Coordinator, Alabama Rehabilitation  
Ron Talley- ASSISTECH Group  
Peggy Turner – The Lakeshore Foundation

## **The CapTel Relay Service**

The CapTel Phone Relay Service is short for “Captioned Telephone” and is a phone service offered to individuals with hearing disabilities. To use this phone service, CapTel users would make a call just like they were dialing a traditional phone. CapTel uses voice recognition technology and will display the captions of the users conversation on a screen connected to the specialized telephone. This technology will allow users to hear and read everything said by the person on the other line.

This service is offered at no cost to the user and is available on a 24-hour-a-day basis. In addition, the captioning is also offered in Spanish in order for users to make Spanish-to-Spanish calls. However, this service is only available from 7:00am to 11:00pm. Hearing callers can reach a CapTel user by dialing (877) 243-2823 and Spanish-to-Spanish users can dial (866) 217-3362.

Alabama residents may be eligible to receive a CapTel 800 telephone through the Alabama Telecommunications Access Program (ATAP). To find out more about ATAP, or to receive this free equipment, please contact Ms. Jane Burks, Manager at A.I.D.B. by phone at: 205-328-3989, or by email at: [burks.jane@aidb.state.al.us](mailto:burks.jane@aidb.state.al.us).

