



RIGHTS STUFF

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No Legal Duty to Accommodate Employee Whose Child Has a Disability

Eunice Magnus worked for St. Mark United Methodist Church as a receptionist and secretary. She was full-time, working Monday through Friday. Her supervisor, the Reverend Jon McCoy, knew she had a daughter with a disability. The daughter lived in an assisted-living facility during the week and spent the weekends with her mother.

Another secretary, Nancy Branker, worked every weekend, as well as three days during the week. After two years of working every weekend, she proposed that she and Magnus work alternate weekends. Magnus refused, saying she had to have the weekends off to care for her daughter. Church officials suggested other alternatives, all of which required Magnus to work at least some weekends. She refused. She suggested that volunteers could staff the church on weekends, but the church said it had scheduling and confidentiality concerns about her proposal.

Branker was off work for several weeks due to an illness, requiring Magnus to cover her workload. At about the same time, the Rev. McCoy brought up concerns about Magnus' work performance. He said she was not entering information in the daily report logs, not coordinating scheduling for weekend events, not handling

phone calls in a professional manner and not getting the bulletin out in a timely manner. He talked to Magnus about the issues, which she blamed on having to do the work of four secretaries.

The church gave Magnus - and all other employees - a five percent raise. A couple of weeks later, a church committee met to discuss the "Magnus issue," including whether she should be terminated. They decided it was time to let her go.

She sued under the Americans with Disabilities Act (ADA), which says among other things that employers may not discriminate against employees because they associate with someone who has a disability. She lost, both at the trial court and the appellate court level.

The ADA says that employers must provide reasonable accommodations to employees with disabilities to make it possible for them to do their jobs. But employers are not required to provide accommodations to employees who associate with someone with a disability. In other words, an employer might have to let an employee with a disability have time off for treatment, but he

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No Legal Duty to Accommodate Employee Who Has Child With Disability (Continued from page 1)

would not be required to let an employee whose husband has a disability have time off to take her husband to the doctor.

Magnus argued that the timing of her termination - the day after she was an hour late for work because of her daughter - showed that the termination was related to her daughter's disability. But the courts said that there was plenty of evidence that the church had decided to terminate her before she was an hour late, and there was no evidence that anyone was upset because she was late. The church provided legitimate, non-discriminatory reasons for the termination: her unsatisfac-

tory work performance and her refusal to work weekends. Even if her poor work performance was caused by her being distracted because of her daughter's condition, the church had no duty to accommodate that.

Magnus also argued that she had received a merit raise only a few weeks before her termination, and thus her work could not have been so bad. But the evidence showed that everyone received the same percentage raise. It was not a merit raise. The Court said that "it is difficult to escape the conclusion that the crux of this case remains Magnus' belief that she should not be made to work on

weekends when she needs to care for her daughter. Unfortunately for Magnus, despite that the church may have placed her in a difficult situation considering her commendable commitment to care for her disabled daughter, she was not entitled to an accommodated schedule."

The case is Magnus v. St. Mark United Methodist Church, 2012 WL 3194633 (7th Cir. 2012). If you have questions about your rights or responsibilities under the ADA, please contact the BHRC.

Dallas Ordinance May Violate Fair Housing Act

Avalon Residential Care Homes, Inc. is a non-profit organization that provides housing and residential services to people with Alzheimer's in Dallas, Texas. Dallas has a City ordinance saying that only five unrelated people who don't have disabilities may live together in a single family residence. If the unrelated people have disabilities, then the limit is eight. Avalon recently sued Dallas, saying this limit violated the Fair Housing Act, and won a preliminary victory.

Avalon says that "for clinical and economic reasons, it needs to operate a group home in which ten or more people re-

side." It said that Dallas has to grant its request as a reasonable accommodation for people with disabilities.

Dallas said that its ordinance, which allows up to eight unrelated people to live in a single family house if they have disabilities, was already a reasonable accommodation. Dallas said that allowing larger homes would cause hardships to neighborhoods. Avalon said that it had operated homes with more than eight people in other cities without causing any adverse impact on their communities. The Court said that Avalon had the right to show that it would suffer economic

harm if it had to limit its homes to eight people. The Court quoted a previous case in which the judge said "commercial group homes may be the only way for disabled individuals to live in a residential facility."

Avalon argued that Dallas was enforcing the ordinance in its case as retaliation for an earlier lawsuit it had filed against the City. Dallas argued that it was merely enforcing its ordinance, but the Court said that Avalon had the right to show it was being unfairly targeted. The case is Avalon Residential Care Homes, Inc. v. City of Dallas, 2011 WL 4359940 (N.D. Texas 2011).



Bloomington Human Rights Commission Issues Hate Incident Report

The Bloomington Human Rights Commission, responsible for gathering data and issuing reports on local hate incidents, has released its latest report. This report includes 11 reported incidents from July, 2011 through June, 2012. The report is available upon request and online at www.bloomington.in.gov/bloomington-human-rights-commission.

Barbara E. McKinney, director of the BHRC, emphasized that the number collected each year is reflective only of those incidents that were reported, which may not be a comprehensive count. Still, she said the fact that the number is

lower than in the two previous annual reports (18 and 26, respectively) is encouraging.

"The report is the best gauge of hate incidents we have, but it is never possible to determine a completely accurate number," said McKinney. "We use the report to get a general sense of what is happening in the community with respect to these types of activities."

As is always the case, the hate incidents described in this report take a variety of forms, including verbal harassment, threats of physical harm, actual physical harm and vandalism. McKinney said that

while incidents vary in degree of severity, in each case the victim was concerned enough to reach out for help.

The report also addresses the apparent motivations behind each report. Seven of the incidents were apparently motivated by racial bias, two by religious bias, one by bias against gays and lesbians and one by racial and/or sexual bias.

Hate incidents may be reported to the police by calling 911 or to the BHRC by calling 349-3429 or by emailing human.rights@bloomington.in.gov.

Bloomington Human Rights Commission Seeks Nominees For Annual Human Rights Award

The BHRC is seeking nominations for its annual Human Rights Award. Nominees should be individuals or groups that have made specific, significant contributions to improving civil rights, human relations or civility in our community. Nominations are due by December 3.

The BHRC especially welcomes nominations demonstrating success in ensuring rights to equal access to housing, employment or education, in ensuring equal

access to community life for people with disabilities and nominations of people or organizations who have done exemplary work and advocacy in increasing civility and tolerance. The recipient(s) will be honored at a public ceremony.

Past recipients include Bloomington High School North, Bloomington United, Dean Dick McKaig, the Study Circles Project, Daniel Soto, John Clower, Clarence and Frances Gilliam, the Rev. Ernie Butler, the Council for Community Accessibility, Frank

McCloskey, the Bill of Rights Defense Committee, WFHB radio, Doug Bauder, Lillian Casillas, Helen Harrell, Voices & Visions, New Leaf-New Life, and Charlie Dupree and Virginia Hall for their work with Trinity Episcopal Church.

For a nomination form or more information call the Human Rights Commission at 349-3429 or send an email to human.rights@bloomington.in.gov. The nomination form also is available on the City's web page, www.bloomington.in.gov.

DON'T FORGET TO VOTE NOVEMBER 6!



City of Bloomington Dr. Martin Luther King, Jr. Commission Announces Video Contest

The City of Bloomington Dr. Martin Luther King, Jr. Birthday Celebration Commission invites students of elementary, middle and high school ages to submit an original video that addresses the legacy of Dr. Martin Luther King, Jr.

Successful videos will include specific references to the life and legacy of Dr. King. All videos posted by the November 30 deadline and deemed acceptable by the Commission will be available for public viewing and voting. The winning video may be shown at the City's Dr. Martin Luther King, Jr. Birthday Celebration on January 21, 2013 at the Buskirk-Chumley Theater.

Videos must be between 45 seconds and 180 seconds in length. The prize for the best individual video is an Apple iPad; the group prize is a set of gift cards.

To enter, go to bloomington.in.gov/mlk and follow the on-line submission process. Entrants must also print, sign and submit contest participant release forms.

For more information, contact Craig Brenner, special projects coordinator, City of Bloomington Community and Family Resources department, at brennerc@bloomington.in.gov or 349-3471.



City of Bloomington King Commission Announces Funding for "A Day On! Not A Day Off"

Mayor Mark Kruzan announced that the City of Bloomington Dr. Martin Luther King, Jr. Commission has funding available for local organizations that offer service and educational activities for volunteers on "A Day On! Not A Day Off."

"Martin Luther King, Jr., Day presents an excellent opportunity for us to enhance community collaborations," Kruzan said. "We are pleased to call for proposals for funding, thanks to the generosity of the primary financial supporters of 'A Day On! Not A Day Off.' Thank you to these supporters - the Community Foundation of Bloomington and Monroe County and Service for Peace. We are making all funds we receive from these supporters available to local groups to help them acquire materials and supplies to be used by volunteers."

Organizations are invited to create projects that are dynamic and relevant, that combine meaningful service and thoughtful reflection and that provide volunteers with opportunities for sustained service and ongoing community involvement on and around January 21 and during the 40 Days of Peace period. Eligible groups include nonprofit organizations, public and private agencies, student organizations and organizations that serve veterans or military families. City of Bloomington departments and City-sponsored commissions must partner with non-City organizations to apply for funding.

A total of \$30,000 is available. Grant amounts will depend upon the number and quality of proposals, with amounts based partially on the numbers of participants; projects using the greatest numbers of volunteers will receive more funding than those with fewer volunteers. Projects that include continued service and those that involve disadvantaged youth, veterans or military families in service activities or as recipients of service are particularly encouraged. The deadline to request funding is November 9. Detailed guidelines and applications are available at www.bloomington.in.gov/mlk. Groups are encouraged to register their activities even if not applying for funding.