



Indiana ADA and Title VI Coordinators' Association Announces Scholarship for 2019-2020

Peru, IN- The Indiana ADA and Title VI Coordinators' Association is pleased to announce a new scholarship opportunity for incoming college freshmen for the 2019-2020 school year. Incoming freshmen attending an accredited Indiana college or university with a high school GPA of 3.0 or higher are eligible for one of the two available \$500 scholarships. Students' area of study must be associated with the Americans with Disabilities Act or special needs including, but not limited to, education, medicine, speech and/or hearing therapy, engineering, architecture, nursing, physical therapy, occupational medicine, etc.

Applications are available from Ashley Lowe at 765-472-2400 or by emailing alowe@cityofperu.org. Scholarship applications will be accepted through March 1, 2019. Scholarship recipients will be announced no later than July 31, 2019.

The Indiana ADA and Title VI Coordinators' Association Scholarship Fund was established to offer educational opportunities for students focusing on promoting the Americans with Disabilities Act and Title VI through their studies and careers.

The Indiana ADA and Title VI Coordinators' Association provides members who handle ADA compliance with a network of educational resources. The Association serves as a statewide resource for promoting the implementation of the Americans with Disabilities Act. The group's steering committee meets regularly to oversee the implementation of objectives, authorize allocations of grant monies, and review ADA implementation across the state.

For more information, please contact Ashley Lowe at 765-472-2400 or alowe@cityofperu.org.

UPCOMING EVENTS

FEBRUARY IS BLACK HISTORY MONTH

- 2/1-2/2- Bloomington PRIDE Film Festival
- 2/2/2019- Groundhog Day
- 2/5/2019- Lunar New Year
- 2/14/2019- Valentine's Day
- 2/15/2019- BHRC Art/Essay Deadline
- 2/18/2019- Presidents' Day
- 2/25/2019- BHRC Meeting @ 5:30



2019

Black History Month City of Bloomington Events

- ◆ Kick-off - January 31, 2019. Reception begins at 5:30 p.m. and program begins at 6:30 p.m. in City Hall Council Chambers.
- ◆ State of the Black Community - February 12, 2019. Program begins at 5:30 p.m. in City Hall Council Chambers.
- ◆ Essay Contest Reception - February 27, 2019. Program begins at 6:00 p.m. at Fairview Elementary School.
- ◆ Gala - March 2, 2019. Ticketed event. Reception and Silent Auction begin at 6:00 p.m. and Gala begins at 7:00 p.m. at the Hilton Garden Inn. Tickets are available from the Buskirk-Chumley Box Office beginning at 11 a.m. on January 31, 2019.



One purpose of Rights Stuff is to provide information about civil rights litigation as a way to encourage adherence to best practices for landlords and employers. We do this by publishing relevant and timely articles from around the country.

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Refusing Employee Orange Juice Leads to Lawsuit

Linda Atkins is a Type II diabetic. She takes insulin daily and monitors her diet. When she has low blood sugar, she has to ingest 100 calories of glucose quickly to avoid a seizure or passing out. Her preference is orange juice, as it acts quickly and is easy to measure. She began working for Dollar General as a sales associate in 2008. By 2012, she had been promoted to lead sales associate. In that job, she was in charge of handling the cash in the store during the day, depositing the cash and closing the store at night. She was considered a good employee.

Before Atkins' promotion, when her blood sugar was low, she could excuse herself and go to the break room where she kept orange juice in a cooler. After her promotion, she often was the only employee in the store so she could not leave customers to go to the break room. She asked her manager if she could keep her orange juice at the register. Her manager said no, as the store has a policy against employees having food or drink at the register. Twice, she had episodes of low blood sugar when she was the only employee on duty. Each time, she took a bottle of orange juice from the store cooler and quickly drank it. Then she paid for it. Each time, she told her manager what had happened.

District managers came to the store to address thefts by employees. They told Atkins they had heard she ate snack cakes behind the counter. She denied that accusation, but noted she had twice taken juice out of the store cooler during emergencies and then paid for them in full.

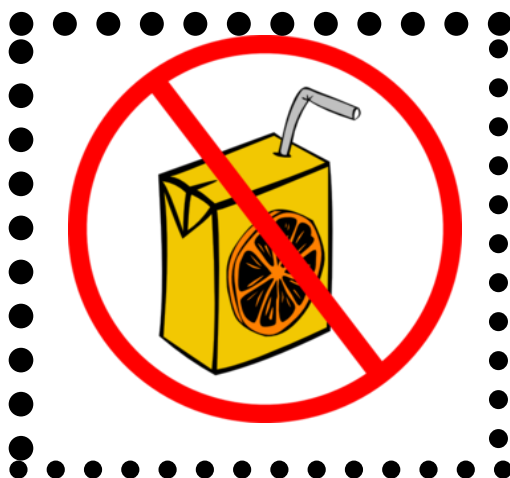
The managers decided her actions violated the store's grazing policy, which says employees may not consume merchandise in the store before paying for it. Atkins sued, alleging disability discrimination and won. At trial, she won \$27,565 in back pay and \$250,000 in compensatory damages. Her attorney won \$445,322 in fees. Dollar General appealed the trial decision and lost at the court of appeals.

The store argued that they did not have a duty to accommodate Atkins because her nurse testified she could have treated her low blood sugar by eating honey, candy or peanut butter crackers. The Court noted that if she had eaten crackers in the store before paying for them, that, too, would have violated the store's grazing policy. The court said that once Atkins requested an accommodation, an exception to the grazing rule so she could consume orange juice in an emergency situation and pay for it later, the store had an obligation to either grant her request or to engage in an interactive process with Atkins. That process would have required the store and Atkins to explore alternatives to her request, perhaps by allowing her to swallow glucose pills. Instead, the store denied her request, failed to explore alternatives, and fired her.

The store also argued that they did not fire Atkins because she had a disability. They fired her because she violated the grazing rule. However, she would not have violated the rule if the store had allowed her to keep her own orange juice at the register or had worked with her to find another solution. Dollar General argued Atkins had failed to show it had animus against people with disabilities. Atkins was not required to prove that.

This case is [Equal Employment Opportunity Commission v. Atkins](#), 899 F. 3rd 428 (6th Cir. 2018).

If you have any questions about the ADA, please contact the BHRC.



Landlords Must Accept Disability-Related Proof of Income

Robyn Edwards and Mikki Adams wanted to rent an apartment from Gene Salter Properties. The landlord had a policy that it would not approve a rental application unless the applicants provided pay stubs, an offer letter, or tax returns to verify their income, or unless they had a qualified guarantor or paid the full lease term up front.

Edwards and Adams could not provide the required type of income verification because their only sources of income were social security disability income, retirement benefits and rental income. They offered to provide proof of the income they did have, but the landlord refused to accept it. They sued, lost at trial, but recently won a legal battle in the Court of Appeals.

The Court of Appeals said that the requested accommodation – that the landlord modify its income verification policy to accept alternative proof of income

– was “necessary and reasonable.” The Court noted that the Fair Housing Act says that it is discriminatory to refuse “to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such persons equal opportunity to use and enjoy a dwelling.”

The landlord argued that Edwards and Adams could have provided tax returns to verify their income. But since most of their earnings came from disability payments, they were not required to file federal tax returns.

The question for landlords should be, does the applicant have sufficient income to pay rent, and not what is the source of the applicant's income.

The case is [Edwards v. Gene Salter Properties](#), 739 Fed. Appx. 357 (8th Cir. 2018). If you have questions about fair housing, please contact the BHRC.

Court Rules Man with Disability Might Be Entitled to Third Bedroom

Los Angeles- Neway Mengistu is a man who has a disability. He requested a three-bedroom apartment from the Housing Authority in Los Angeles: one for him, one for his full-time attendant and one to store large exercise equipment that he would use to strengthen his atrophying muscles.

He gave his landlord letters from health care providers saying that the equipment was necessary so he could train with a trainer in his apartment, strengthen his muscles and improve his cardiovascular system. He said he needed this alternative to going to the gym, as it “would take an army of people; to get him there, to get him transferred to the equipment.” He

would have to stop after 15 minutes at a gym. At home, he could exercise for short intervals throughout the day. His doctors said he could do the same exercises at home without this equipment, but he would not be able to achieve as much as he could with it.

The landlord refused to provide Mengistu a third bedroom. He sued and lost at the trial level, which found that he had not sufficiently demonstrated a nexus between his disability and his need for a third bedroom. That court granted the housing authority's request for a summary judgment, meaning the case did not go to a jury. The Court of Appeals overruled the district

court's decision, noting his doctors had responded in a timely manner and confirmed the need for the equipment. The appellate court said that a reasonable jury could conclude that Mengistu's requested accommodation, a third bedroom, was reasonable, and the housing authority denied the request because it disregarded his medical evidence.

The case will now go back to the district court for a trial unless the parties settle. The case is [Mengistu v. Housing Authority of Los Angeles](#), 742 Fed. Appx 247 (9th Cir. 2018). If you have any questions about housing discrimination, please contact the BHRC.