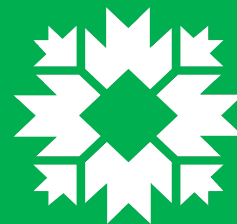


RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

BHRC Among LSN Lead Forward Community Grant Recipients

Independent Colleges of Indiana, Inc. (ICI), in collaboration with the Lilly Scholars Network (LSN), will award eight organizations around the state a total of \$19,450 in grant funding through the LSN Lead Forward Community Grants (LFCG) program. The program pairs charitable organizations with Lilly Endowment Community Scholars to enhance their Indiana communities.

LSN, with funding from Lilly Endowment Inc. and oversight from ICI, works to engage Lilly Endowment Community Scholars in topics and with people focused on advancing Indiana's future, inspire and equip the scholars to be active changemakers in their communities and cultivate meaningful connections.

"The Lead Forward Community Grants Program continues to help Lilly Endowment Community Scholars enhance our local communities throughout the state," said Isaac Janson, past chair of the LSN Advisory Council and a 2002 scholar from St. Joseph County. "Lilly Endowment Community Scholars, who are recognized for their creativity, talent, and community

involvement, can help identify community needs, and provide the impetus and enthusiasm for innovative approaches to create positive change."

LFCG grant projects will be completed between January 1, 2022 and June 30, 2022.

The BHRC received a \$2,500 grant, which will fund a boxed lunch series that will provide training and community conversations around diversity, equity and inclusion and conclude with a community clean-up day.

"Through my time working for the City of Bloomington, I have gained an intimate knowledge of the BHRC's work, and I believe this project will help fulfill a portion of the BHRC's mission through education and overall awareness. It is my hope that additional education and awareness will lead to prevention. Furthermore, this project allows the BHRC to partner in service with other City commissions with overlapping missions," said Nicole DeCriscio Bowe, who is leading this project and received her Lilly Endowment Community Scholarship from Allen County in 2012.

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Accessible Web Sites

The federal government has yet to issue regulations to help insure that websites are accessible to people with disabilities, but it does require that websites for places of public accommodation be accessible. The Department of Justice recently negotiated a settlement with Hy-Vee proving this point.

Hy-Vee is a chain of supermarkets with pharmacies in the Midwest. It provided a vaccine registration portal for its customers who wanted to schedule vaccines.

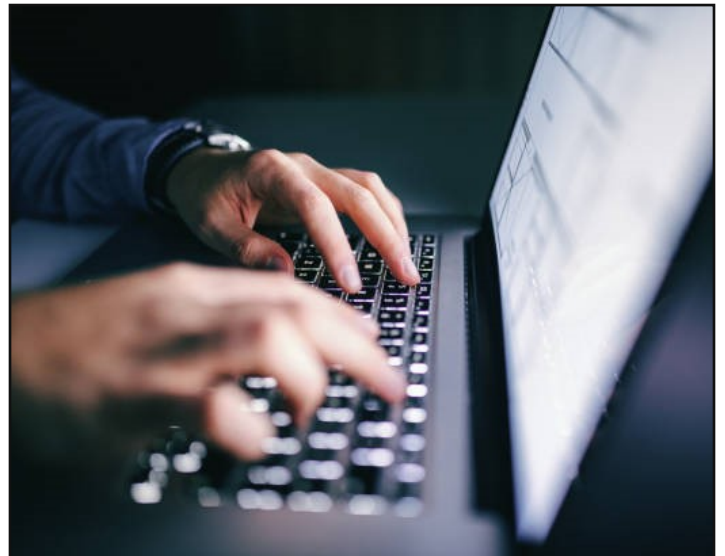
According to the Department of Justice, people who use screen reader software and people who have difficulties using a mouse to navigate websites encountered barriers with Hy-Vee's site. People who use screen readers encountered images, buttons and form fields that were unlabeled or had inaccurate alternative text or labels. Pop-up windows, error messages and drop-down menus were not reported to screen readers. And people who can't use a mouse could not navigate the portal because some buttons, such as available vaccination times, could not be selected using a keyboard.

Hy-Vee denied that it was not accessible, saying that people who could not make an appointment online could still access appointments by calling to schedule appointments, visiting mobile vaccination clinics or using a walk-in appointment. Nevertheless, it agreed to do the following to settle the complaint:

--Within ten days, resolve any issues on its website that would prevent a person with a disability from privately and independently accessing the substantive information Hy-Vee provides about the COVID-19 vaccine on its website, from scheduling a vaccination appointment on the portal or from completing vaccination-related forms on the portal.

--Within 90 days, make sure the portal conforms to Web Content Accessibility Guidelines 2.1, Level AA, published by the World Wide Web Consortium (WCAG 2.1 AA).

--Include a notice about accessibility on its home page.



--Include a notice about scheduling appointments via telephone on its home page, and staffing the telephone line 24 hours a day.

--Test its website using an automated accessibility testing tool and also using at least one person with a disability who uses a screen reader and at least one person with a disability who can't use a mouse. Anyone responsible for a business's web site should consider using an automated accessibility tool to evaluate the site's accessibility, and should consider complying with WCAG 2.1 AA. And asking people with disabilities to access your sites, both physical and virtual, and provide you with feedback is never a bad idea.

RIGHTS STUFF'S MISSION

The purpose of Rights Stuff is to provide information about civil rights litigation as a way to encourage adherence to best practices for landlords, providers of public accommodations and employers. We do this by publishing relevant and timely articles from around the country. Please see the reports in this issue to learn more.

Same-Sex Harassment is Illegal

CR began working for Glenn Industrial Group as a diver and diver assistant in 2015. The company provides underwater inspection and repair services, mainly to utility companies.

Glenn has a harassment policy which requires employees who experience harassment to report it to Richard Glenn, the company CEO.

CR is a straight man who said that some of his coworkers apparently perceived him to be gay. He said these coworkers subjected him to constant harassment and verbal assaults. He said they called him gay, they used sexually explicit and derogatory remarks toward him and they physically threatened him. He said they physically slapped him and put him in a headlock. They asked him profane questions about what he would do for money and called him "gay" and "f____t." One coworker admitted to using these terms, but dismissed it as "locker room banter."

CR complained, not to Mr. Glenn as the policy required, but to his supervisor, to the person in charge of HR and to others. He said he was told by one manager to "suck it up." No action was taken against the offenders, so he sued. Glenn asked for summary judgment, meaning there was not sufficient evidence for a trial, and lost.

The court said that CR's allegations that he had been "repeatedly subjected to taunts and harassment which called into question [his] sexual preference and sexual orientation" was enough to create a genuine issue of material fact that he was harassed based upon his sex." And the harassment he alleged was "sufficiently severe or pervasive to alter [his] conditions of employment and to create an abusive work environment." In an earlier proceeding, the court had said that the physical assaults were not of a sexual nature and thus could not be part of CR's sexual harassment case, but the court of appeals pointed

out to the lower court that "the fact that the assaults were not of a sexual nature does not preclude them from being considered as evidence in support of [his] claim of a hostile environment based on sex."

Glenn Industrial Group tried to argue that CR had failed to follow its harassment reporting policy because he did not contact Richard Glenn, and thus the company could not be held liable for the harassment. But the court noted that CR had reported the harassment to several managers, including the person in charge of HR, who was married to Mr. Glenn. The company had knowledge of the harassment and allegedly did nothing but tell CR to "suck it up."

The case will now proceed to trial unless settled. It's Roberts v. Glenn Industrial Group, 2021 WL 4928462 (W.D. N.C. 2021). If you have questions about workplace harassment, please contact the BHRC.

Need Help Getting Your High School Diploma?

According to the Census Bureau, more than 30 million adults in the United States do not have a high school diploma. If you don't have a high school diploma, or if you know someone who doesn't, you might want to consider the Excel Center. The Excel Center Bloomington is a free high school for adults that provides students with an opportunity to earn their high school diploma along with dual college credits and industry-recognized certifications. According to their materials, they provide free childcare onsite,

transportation support and a life coach. The program is sponsored by Goodwill.

Students may enroll in the program year-round by going to www.excelcenter.org. Once you enroll, you attend an orientation and then meet with a life coach whose goal is to help you remove barriers and map out a path to success. For more information, call 812-353-8084. The Bloomington school is located at 2088 S. Liberty Drive, Suite 101.

Landlords Can't Prohibit Emotional Support Animals

At the BHRC, we often get calls from tenants about landlords refusing their requests to have service dogs or emotional support animals. And we get calls from landlords saying they don't have to allow service dogs or emotional support animals because they don't allow pets. A recent case is similar to many of our calls.

Stephanie Johnson is a woman whose medical diagnosis prompted her to get an emotional support animal (ESA). She told her landlord, Roger Birks, that she needed an ESA, and provided medical documentation.

Birks told her he would allow the dog to be in her apartment, but she would need to pay an additional \$700 security deposit. He later told her he would not renew her lease because she had moved a dog into the apartment without permission. She said he told her, "When your lease comes back around, I'm not going to want a dog on the property. I don't want animals on my property, then everybody else



is going to think they can have animals on the property." He also questioned why, if she needed an ESA, she was not taking the dog to work with her.

She sued. Birks tried to get the case dismissed, and lost.

The court said Johnson had plausibly pled that her landlord had violated fair housing laws when he charged her a security

deposit for the dog and refused to renew the lease because of the dog. The case can go to trial.

If you have questions about your rights and responsibilities under fair housing laws, please contact the BHRC.

The article is based on Johnson v. Birks Properties, LLC, 2022 WL 104736 (S.D. CA. 2022).

The next BHRC meeting will take place at 5:30 p.m. March 28, 2022. Visit our website or Facebook page for the most up-to-date meeting information.