

## ADA Audio Conference Series March 18, 2014

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**WHAT'S YOUR PLAN?**  
**Part Three**  
**Bringing It All Together:**  
**Transition Plans, Barrier Removal**  
**Plans, and Action Plans**

**Irene Bowen**  
**James Terry**

**March 18, 2014**

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**Instructors**

**Irene Bowen, JD, PA**

President, ADA One, LLC  
Former Deputy Chief, Disability Rights Section, US DOJ  
Former Deputy General Counsel, Access Board

**James Terry, AIA, LEED-AP, CASp**

Chief Executive Officer, Evan Terry Associates, P.C.

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## Overview of sessions

- Part One: Getting Started
- Part Two: A Hands-on Approach to Self-Evaluations
- Part Three: Bringing It All Together: Transition Plans, Barrier Removal Plans, and Action Plans

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## Refresh

- Goal is compliance
- Regulations and requirements
- Areas of examination and terminology
  - Equal opportunity – includes communication, policies, practices
    - “Policies and practices”
  - Physical access – buildings, facilities, equipment
    - “Program accessibility”

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## Last time

- Critical decisions
- Stages of self-evaluation
  - Plan
  - Gather information
  - Analyze and report
  - Plan for remediation
- Preparing for a transition plan/barrier removal plan

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## Action plan builds on critical decisions made earlier

- Type of analysis
- Level of reporting
  - Town/city or
  - Department or
  - Each program, service or activity
- Granularity/level of detail
- All at once, or in phases
- Electronic information or not
- Checklist or narrative or combination

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## Things to do

- Draft recommendations
  - Have departments draft their own pieces?
- Meet with departments
- Public input
- Final plan



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## Organizing an action plan

- By department
- By program
- By category of activity
  - Communication
  - Meetings
  - Separate programs
  - Procurement
  - Emergency evacuation
- By type of recommendation

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## Possible types of recommendations

- Centralized policy changes, including for program access
- Centralized procedures
- Centralized training
- Department-specific action steps

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## What about facilities?

- Remember: physical changes go in the transition plan
- Other facility-related changes go in the action plan
  - Centralized booking of accessible space
  - Moving furniture, classes, events
  - Maintaining accessible features
  - Training

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## Example: maintenance

Accessible features must be maintained in operable working condition.

- Lifts
- Clear space
- Grab bars
- Parking
- Automatic doors
- Sidewalks



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## Typical action steps (1)

- Direct staff to discontinue practices that are discriminatory (“red flags”)
  - Asking companions to assist with communication (e.g., to interpret, read) or provision of services (e.g., health care)
  - Asking forbidden questions about service animals
  - Denying interpreters, auxiliary formats
- Create and/or publicize --
  - Title II notice of nondiscrimination
  - Identity of ADA Coordinator
  - Grievance procedures

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## Typical action steps (2)

- Develop an administrative order setting out --
  - Responsibilities of ADA Coordinator
  - Responsibilities of department liaisons
  - Processes for obtaining interpreters, alternate formats, accessible meeting space, etc.
  - Process/form for making decisions as to fundamental alteration, undue burden
  - Means of monitoring activities by contractors
  - Ensuring broadcasts and videos are accessible

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## Typical action steps (3)

- Train emergency responders on interaction with people with disabilities
- Train staff in large facilities to assist people trying to find a service.
- Train staff on how to use telecommunication relay services

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## Keep on it

- Assign tasks to individuals, departments, program managers
- Assign deadlines
- Ensure accountability
- Make it part of the job description
- Fund the follow-up

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## Program Access Through Transition Planning

(And Other ADA Title II Facilities Requirements)

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**When do program access requirements apply under Title II ?**

- Program access requirements related to facility access apply in addition to requirements for new construction and alterations, and in addition to self evaluation requirements related to communications, policies, and procedures.
- When no new construction or alterations are taking place, there is still an obligation to remove barriers to program access.

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**How do you achieve program access?**

- Provide programs, services, or activities in accessible places so that your program, when seen as a whole is accessible, but be careful about distance, convenience, and integration.
- Remove barriers in those areas that people with disabilities will need to go to participate in your programs, activities and services.

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**Program access is more flexible than the Standards but may require more:**

- A facility with heavy exterior doors will probably need to have at least one automatic door opener.
- You may be required to have more accessible parking spaces than required by the Standards.

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**Program access does not require:**

- That you take actions that would change the fundamental nature of the program.
- That you take steps that would create an undue financial and administrative burden.
- Undue financial burden must be decided at the top when looking at the entire budget and is a much higher obligation than the readily achievable obligation of Title III.

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**Transition Planning Considerations**

- I. Overview of the requirements of the law for physical & program access
- II. Breadth and scope of coverage
- III. Types of physical barriers
- IV. Alternative methods
- V. What must be included in the plan
- VI. Which Standards?
- VII. Logical approaches to providing physical access

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**Transition Planning Considerations**

- VIII. Facility selection for program access
- IX. Surveying facilities for program access
- X. Information needed
- XI. Barrier prevention and monitoring
- XII. Leased facilities
- XIII. TP practicalities
- XIV. Funding the work

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**I. Overview of requirements for physical and/or program access**

- a. New Construction commenced after January 26, 1992
- b. Alterations commenced after January 26, 1992
- c. Facilities where programs, activities, and services take place (with some exceptions)
  - 1. Unaltered areas of existing facilities
  - 2. Leased facilities
  - 3. Facilities controlled by others

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**II. Typical breadth of facility types covered**

- a. City and town halls and administrative centers
- b. Courthouses
- c. Jails, Prisons, and detention centers
- d. Police stations
- e. Fire stations
- f. Sheriffs' departments

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**II. Typical breadth of facility types covered (cont'd)**

- a. Polling places
- b. Parking decks
- c. Health care delivery centers
- d. Childcare centers
- e. Teen activities centers
- f. Senior activities centers
- g. Emergency shelters

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**II. Typical breadth of facility types covered** (cont'd)

- n. Animal shelters
- o. Libraries
- p. Museums
- q. Fairgrounds
- r. Convention centers
- s. Auditoriums and theaters
- t. Baseball and football stadiums
- u. Visitors centers

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**II. Typical breadth of facility types covered** (cont'd)

- v. Parks, also including
  - i. Public Gardens
  - ii. Recreation centers
  - iii. Golf courses
  - iv. Ice skating rinks
  - v. Public swimming and wading pools
  - vi. Playgrounds
  - vii. Ball fields

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**II. Typical breadth of facility types covered** (cont'd)

- v. Parks, also including (cont'd)
  - viii. Bleachers
  - ix. Tennis centers
  - x. Band shells
  - xi. Gazebos
  - xii. Marinas and fishing facilities
  - xiii. Nature trails
  - xiv. Shared use paths

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**II. Typical breadth of facility types covered** (cont'd)

- w. Airports, public transportation stops, and transit stations
- x. Public rights of way elements
- y. Waste disposal/landfill facilities open to public use
- z. All other public entity owned and/or controlled public facilities

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**III. Types of physical obstacles listed most frequently in DOJ Agreements**

- a. Parking
- b. Curb ramps
- c. Routes from public transportation, accessible parking, streets and/or sidewalks to accessible entrances
- d. Routes through the facilities
- e. Doors and door hardware
- f. Ramps and handrails
- g. Stairs and handrails

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**III. Types of physical obstacles listed most frequently in DOJ Agreements (cont'd)**

- h. Elevator cabs and lobbies
- i. Platform lifts
- j. Rest rooms, accessible plumbing fixtures, and accessories
- k. Showers and bathing facilities
- l. Dressing and locker rooms
- m. Alarms
- n. Signage (all required types)

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**III. Types of physical obstacles listed most frequently in DOJ Agreements (cont'd)**

- o. Drinking fountains
- p. Telephones
- q. Service and ticket sales counters
- r. Concession stands and gift shops
- s. Wheelchair seating in assembly areas
- t. Access to stages and performing areas
- u. Assistive listening systems
- v. Libraries

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**IV. Physical access v. alternative methods**

- a. Physical access is not required to every facility where alternative methods are as effective in providing program access, but, where structural changes are required, a transition plan is required.

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**IV. Physical access v. alt. methods (cont'd)**

- b. Alternative methods for compliance in existing facilities may include
  - i. Redesigning equipment
  - ii. Reassigning services to accessible buildings
  - iii. Assigning aides to beneficiaries or home visits
  - iv. Delivery of services at alternate sites
  - v. Alteration of existing facilities
  - vi. Construction of new, accessible facilities
  - vii. Use of accessible rolling stock or other conveyances
  - viii. Other methods to achieve "readily accessible to and usable by"

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**V. Regulatory “requirements” of what must be included in a transition plan**

- a. Identify all physical obstacles (**barriers**) in the facilities that limit program access
- b. Detail the **methods** that will be used to make the facilities accessible
- c. **Schedule** the steps to be taken each year to achieve compliance
- d. **Name of official responsible** for implementation

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**VI. Determine which Standards will be used to identify barriers**

- a. 2010 ADA Standards
- b. 1991 ADA Stds. or UFAS (for Safe Harbor)
- c. State and/or Local Standards (SH ?)
- d. Rehab. Act - Section 504 program access standard
- e. Public right of way
- f. Shared use paths
- g. Outdoor developed areas

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**VII. Logical approach Option “A” for identifying barriers and removing them for physical access**

- a. **Identify every program** offered and evaluate each program for barriers. Remove, then:
  - i. Train program-setting employees to recognize and avoid barriers when moving and adding programs and services and when scheduling all public activities and events
  - ii. Update transition plan, secure funding, and eliminate barriers every time programs move or are added to inaccessible facilities or areas within facilities

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**VII. Logical approach Option "B" for identifying barriers and removing them for physical access**

- b. Identify areas** in every facility where programs are offered and then identify all barriers in those areas. Remove them, then:
  - i. Train program-setting employees to schedule programs, services, public activities and events only in areas of facilities that are already physically accessible
  - ii. Update transition plan, secure funding, and eliminate barriers only when programs move or are added to the few remaining inaccessible facilities or areas within facilities

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**VIII. Select facilities where programs will be offered to achieve program access**

- a. Verify ALL programs, services, and activities will be accessible
- b. If not all accessible at every location, geographically dispersed at convenient locations

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**VIII. Select facilities where programs will be offered to achieve program access (cont'd)**

- c. If not all accessible, consider how facilities are used
  - 1. Example – two auditoriums: BOTH must be accessible
  - 2. Example – twenty swimming pool facilities: SOME must be accessible
    - i. Swim meets must be held only at accessible pools
    - ii. Swimming lessons must be offered at accessible pools

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**IX. Survey facilities to identify physical obstacles (barriers) that limit program access**

(Details on this process are covered in other programs.)

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**X. Additional information needed about each facility, each barrier, and each solution**

Additional information is needed about each facility, each barrier, and each solution and care must be taken to organize that information to communicate the barriers information effectively, to make decisions consistently and appropriately, and to efficiently coordinate and implement the plan.

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**X. a. Facility information**

- i. Facility name (and numerical identifier if one is used)
- ii. Facility type (if one is used)
- iii. Date of initial occupancy and last major renovation (if any)
- iv. Address of facility
- v. ADA contact/coordinator at facility
- vi. ADA contact's phone number
- vii. Date facility was surveyed to identify barriers to be removed
- viii. Name and phone number(s) of ADA surveyor(s)

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### X. a. Facility information (Cont'd)

- ix. Surveyor's notes about any difficulties encountered during survey and any questions that need to be answered before the facility is ready for inclusion in final transition plan
- x. If desired, which spaces, features, and/or elements of the facility are already accessible and need no further work
- xi. Executive summary of physical barriers identified
- xii. Overall photograph(s) of the facility for general reference

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### X. a. Facility information (Cont'd)

#### xiii. After physical barrier removal is complete:

1. Date last physical barrier was removed
2. Name of individual certifying all work was completed as noted below
3. Certifier's contact information
4. General notes and exceptions

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### X. b. Physical barrier information

- i. Unique barrier identification number
- ii. Exact location of physical barrier
  1. Described in words
  2. Marked on a floor or site plan
- iii. Description of existing condition that is non-compliant
- iv. Description of what is required for program access
- v. Reference(s) and figure numbers from the Standards
- vi. Photograph(s) of the barrier showing the problem in context and in detail

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## X. b. Physical barrier information (cont'd)

### vii. Analysis codes for prioritizing barrier removal if not all will be fixed immediately

#### 1. Use Code (How much is the area or element used by the Public and/or who controls it?)

##### Possible Examples:

- HP – High Public use
- GP – General Public use
- MP – Minimal Public use
- EV – Evacuation route or emergency exit
- L – Landlord controlled area or element
- G – Other Governmental entity or agency
- T – Tenant controlled area or element

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## X. b. Physical barrier information (cont'd)

### vii. Analysis codes for prioritizing barrier removal if not all will be fixed immediately (cont'd)

#### 2. DOJ Code (simplified priorities from Title III regulations)

- 1 - Access into the facility (out of the weather)
- 2 - Access to programs, activities, and services
- 3 - Access to toilet rooms
- 4 - Access to other elements
- 5 - Duplicate of other space or element being fixed

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## X. b. Physical barrier information (cont'd)

### vii. Analysis codes for prioritizing barrier removal if not all will be fixed (cont'd)

#### 3. Severity Code (How bad is this specific barrier now?)

- A - Safety consideration for people with disabilities
- B - Blocks access to a significant number of people with disabilities
- C - Major inconvenience to a significant number of people with disabilities and blocks access for some
- D - Minor inconvenience to most people with disabilities, major to few, blocks almost none
- E - Fails stricter state requirement (optional)
- F - Fully compliant element (optional)

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**X. c. Detailed methods to achieve compliance**

- i. Description of proposed physical solution
- ii. Cost estimates or level of effort required for proposed method of correction
- iii. Any additional requirements of State Standards that will apply
- iv. Possible alternative method(s)...

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**X. c. Detailed methods to achieve compliance (cont'd)**

- v. If an alternative or administrative method will be used in lieu of physical barrier removal:
  - 1. Cost estimate or level of effort for proposed alternative method
  - 2. How the alternative or administrative method will be communicated to and coordinated with those responsible for implementing it
  - 3. Identify any difficulties expected with continued dependence on this method
  - 4. Name and position of individual(s) approving alternative
  - 5. Decisionmakers' contact information

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**X. c. Detailed methods to achieve compliance (cont'd)**

- vi. After decision re: physical fix or alternative method
  - 1. Who will be responsible for the work
    - a. Specific department, and/or
    - b. Operations staff
    - c. Custodial/Housekeeping staff
    - d. Maintenance staff
      - i. Locksmith
      - ii. Landscaper
      - iii. Carpenter
      - iv. Plumber
      - v. Electrician
      - vi. Other

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**X. c. Detailed methods to achieve compliance (cont'd)**

- e. Capital improvements group
- f. Legal
  - i. Landlord
  - ii. Tenant
  - iii. Other government agency

**vii. After physical barrier removal is complete:**

1. Date barrier was removed
2. Name of individual certifying that work was completed as noted below
3. Certifier's contact information

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**X. c. Detailed methods to achieve compliance (cont'd)**

**viii. After physical barrier removal is complete: (Cont'd)**

4. Notes and exceptions
  - a. Differences between initial transition plan and actual physical work completed
  - b. Reasons for changes to physical barrier removal
  - c. Who approved changes
  - d. Date of approval

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**X. d. Streets, sidewalks, and curb ramps plan**

- i. Decide whether to use an automated system or a manual method for identifying barriers
- ii. If a manual method, use survey forms with diagrams to assess all existing conditions consistently and develop/select solutions in the field when possible
- iii. Survey only once and collect all information needed for decisions and management of process
- iv. Setting priorities (discussed during last session)

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### X. e. Organizing and communicating the information

- i. Difficulties with hard copy data, plans, & spreadsheets
- ii. Database with standard analysis options and tailored reports
- iii. Database live on a secure internet server with layered access for specific user types
- iv. Photos (before and after)
- v. Site and floor plans of facilities, parks, etc
- vi. Geographic information systems to manage PROW and site data and document process (GIS)
- vii. Map(s) showing all facilities with accessible ones noted
- viii. Map(s) showing most accessible routes (keep updated)

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### XI. Barrier prevention and monitoring

- i. Conducting plan reviews of new projects during design and verifying construction in the field
- ii. Checking alterations projects
- iii. Watching and training maintenance staff
- iv. Training and overseeing custodial staff
- v. Coordinating with operations personnel
- vi. Working with public service representatives
- vii. Following up with vendors and suppliers
- viii. Verifying access to new and changing programs

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### XII. Leased facilities

- i. Under title II, a state or local government should attempt to lease accessible facilities. If they can not, then the program access requirements will apply to the facility that is leased.
- ii. Necessary changes will need to be negotiated with the landlord.
- iii. Refusal on the part of the landlord does not make the changes technically infeasible.

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### XIII. TP practicalities

- i. Access to programs vs. facility access
- ii. Setting priorities when the budget is limited
- iii. Which survey details will you collect?
- iv. Coordinating accessible facility solutions with the operations, maintenance, procurement, and various program providers to assure consistent “program access” in practice
- v. Tracking and communicating what you are doing, what you’ve done, and how to use it

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### XIV. Funding the work

- a. **Stop the processes that are creating new barriers**
  - i. Training ALL design and construction team members
  - ii. ADA plan reviews of new construction and alterations
  - iii. Reviews and approvals of standard accessible products
  - iv. Training and support for maintenance and operations teams
- b. **Look for opportunities and methods to piggyback ADA work onto other projects**
  - i. Ongoing maintenance work
  - ii. New construction, additions, and alterations projects
- c. **Seek new funding sources**
  - i. Donations and partnership projects
  - ii. State funding sources
  - iii. Federal funding sources (CDBG, FEMA, Direct, etc.)

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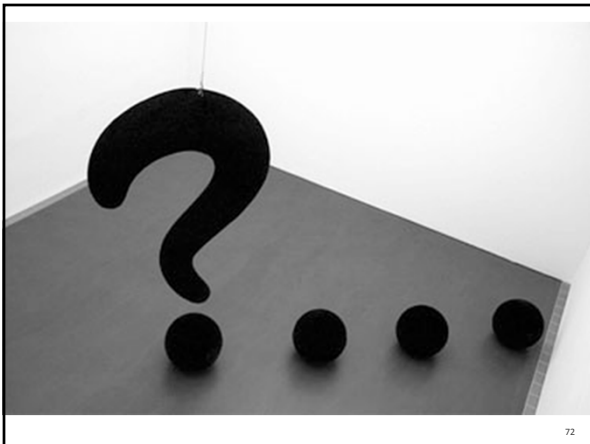
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**CONTACT**

**Irene Bowen, J.D.**  
President, ADA One, LLC  
9 Montvale Court  
Silver Spring, MD 20904

**Web site:** <http://ADA-One.com>

301.879.4542 (O)  
301.236.0754 (F)



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**CONTACT**

**James L.E. Terry, AIA, CASp**  
CEO, Evan Terry Associates, P.C.  
One Perimeter Park So. #200S  
Birmingham, AL 35243

[www.EvanTerry.com](http://www.EvanTerry.com)  
[jterry@evanterry.com](mailto:jterry@evanterry.com)

205.972.9100 (O)  
205.972-9110 (F)



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Thank you for participating in today's  
ADA-Audio Conference Session

The next scheduled session is:

***"Googling: Job Applicants"***

**April 15, 2014**

[www.ada-audio.org](http://www.ada-audio.org)

877-232-1990 (V/TTY)

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