

## Office of Equal Opportunity

Newsletter – February 2011

### IUPUI “Search and Screen Protocols” Training Modules

Search and Screen Protocols training modules were developed to assist faculty, staff and students in their work as a member of an IUPUI search committee. As an employer, IUPUI has an obligation to ensure fairness and equity in every search process and open and broad-based searches help to achieve the most diverse applicant pools. Open searches are important to our demonstration that diversity is an educational value. This is something that we ascribe to as a University and full, fair and open searches help us to achieve that goal.

These search and screen protocols are divided into *five distinct modules*:

1. The **“Search Process”** is intended as a general guide to the recruitment, selection and appointment process as monitored by IUPUI’s Office of Equal Opportunity. It addresses the search process as it relates to the search committee, the job/position description, experience – quantity v. quality, advertising and recruitment, applicant screening, and addresses the challenges and strategies for increasing the applicant pool.
2. **“Quick Tips – Guidelines for Pre-employment Inquiries”** provides information about the do’s and don’ts as they relate to the formal interview as well as informal discussions with candidates. These tips are specifically directed towards gender and family matters, age, national origin and citizenship, disabilities, and other characteristics.
3. **“Hiring with the Americans with Disabilities Act Amendments Act in Mind”** speaks to affirmative and negative phrases regarding disabilities, provides general tips about the appropriate manner in which to interact with people living with a disability, and provides guidelines for communicating with individuals with various disabling conditions.
4. **“Cultural Norms”** explores 10 aspects of culture that candidates bring into the interview process and how some of what tends to get in our way is grounded in culture.
5. **“Rater Errors”** focuses on the biases that we potentially bring and attribute to individuals as we engage in the search and screen process.

While we believe that all members of the IUPUI community can benefit from participating in these training modules, we strongly encourage Search and Screen Committee members to review each module in its entirety prior to the launch of the search process. The modules are available at <http://www.iupui.edu/~oeo/sstraining/index.html>. Questions can be directed to IUPUI’s Office of Equal Opportunity at (317) 274-2306.

# What Are the Best Words for Disabilities?

By the DiversityInc Staff

## Best Words

Although there are several different accepted terms and words for people with disabilities, one thing is for sure is that the disability shouldn't be the focus—it's just a condition the person has, not how we define the person. "**People-first language**" puts emphasis on placing the individual BEFORE the disability. Two examples are "people with disabilities," not "disabled people," or "the manager who is blind" and not "the blind manager."

The term "**disabilities**" is a widely accepted term while "**differing abilities**" or "**differently-abled**" are fine, though less common. The last two terms are reminders that each of us has abilities that are greater or lesser—it's just a question of what those are."

**Words to Avoid** – make sure that you steer clear of any of the following terminology:

<b>Retarded</b> – was the term often used for people with below-average intelligence. Now, it's much more acceptable to say someone has intellectual, developmental or cognitive disabilities. Outside the medical field, using "mental-health issue" or "condition" instead of "mental illness" is also acceptable.	<b>Special</b> – when you say 'special' with the connotation of disability it means that it's been adapted so that it's not at the same level. In the context of employment, where people want to be competitive and be seen as valuable, it's really helpful to avoid the term 'special' because it means that you're going to need to be held to a different standard rather than expect the same things as you would of your other colleagues.
<b>Handicapped</b> - connotes a time when pity was considered an acceptable response rather than the current emphasis on empowerment and inclusion.	<b>Disabled</b> – is highly offensive; it negates a person's individuality and reduces him/her to a category generally perceived as negative.
<b>Wheelchair-Bound</b> – nobody is tied to their wheelchair. And if the chair has a motor, the best way to refer to it is not an 'electric chair' because that doesn't have very good connotations, but as a 'power chair'.	<b>Gimp or Crip</b> – calling anybody by a derogatory name like that, you just don't do it. It's not funny, it's demeaning and it's only meant to demean.

## Etiquette for a Coworker to Ask

In an effort to bridge the gap with a coworker with a disability, people may want to find the most respectful way to address their coworker's disability. It is strongly suggest that be a conversation that happens after a strong rapport is established. Once you get to know the person, you can simply ask them, 'How do you prefer to have your condition referred to?' Rather than have questions in your mind, people with disabilities would generally prefer that they be given the opportunity to give you the right information. In addition, given the sensitive subject, you may not always end up with a simple resolution or response. By asking about word preferences, a colleague may find that there is no one solution to the PC of words that will satisfy everyone. Just keep asking.

# Obesity Is a Disability, Says EEOC

By Bob Gregg

The [U.S. Equal Employment Opportunity Commission \(EEOC\)](#) now claims [obesity is a disability](#) under the [Americans with Disabilities Act Amendments Act \(ADAAA\)](#). Until now, the courts have routinely rejected general obesity as a "disability" under the ADA and Rehabilitation Act. Cases have required one to show some different underlying medical condition that is a disability and that causes obesity as a "symptom." Now the EEOC has filed suit, claiming that a company discriminatorily fired an employee because of obesity. The EEOC claims that ever since President George W. Bush authorized the ADA Amendments Act in 2008, the law has a much lower threshold for what constitutes a disability. The EEOC claims that basic obesity, without any other underlying condition, sufficiently impacts the life activities of bending, walking, digestion, cell growth, etc., to qualify as a disability or perceived disability. *EEOC v. Resources for Human Development (E.D. LA.2010)*.

# Gambling Addiction Not a Disability

By Bob Gregg

**Plaintiff runs afoul of the "sin exceptions."** An employee of a defense contractor developed a gambling addiction. He failed to pay \$30,000 in casino debts and was arrested for larceny. He failed to inform the company of the arrest, as required by company policy and government contract. When he finally came clean about the arrest and gambling issue, he was fired for failure to follow the policy. He sued for disability discrimination, claiming that major depression was his disability and gambling was a manifestation of that condition. The ADA contains exclusions for several conditions that Congress viewed as "improper or immoral." Even if they are serious mental conditions, they are specifically placed outside the ADA's requirements for reasonable accommodation or other protections. Compulsive gambling is one of these "sin exceptions." The court rejected the "gambling as a manifestation of depression" plea as an unsubstantiated effort to work around the exception. It dismissed the case. *Trammell v. Raytheon Missile Systems (N.D. Ariz., 2010)*.

# Breastfeeding in the Workplace

by Ken Chang

A new Wisconsin law established a mother's right to breastfeed her child wherever both mother and child are otherwise authorized to be, and a new federal law has recognized the reality that many employees will want to continue breastfeeding, even after returning to work.

To make life easier for these employees, the Fair Labor Standards Act now requires employers to provide accommodation for nursing mothers. This includes "reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk." The accommodation must also include "a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk." Employers with fewer than 50 employees might be excluded from these federal requirements, but only if such requirements would impose "an undue hardship." Finally, the new provisions do not preempt any state law that provides greater protections to employees.

On December 20, 2010, the U.S. Department of Labor ("DOL") set forth its preliminary interpretation of these new requirements, thus providing some helpful clarification:

1. First, federal law does not require employers to compensate nursing mothers for breaks used for breast-pumping. Where an employer already provides paid breaks, however, a mother who uses that break time to pump must be paid in the same way that other employees are compensated for that break time.
2. Second, flexibility is important. Employers must recognize that the number and timing of the breaks may vary based upon the baby's nursing schedule and the mother's health needs. The DOL estimates that mothers typically need two or three breaks during an eight hour shift, and that longer shifts would require additional breaks. Although the act of expressing breast milk typically takes about 15 to 20 minutes, employers should also consider other factors; including the time it takes at their particular workplace to take care of setting up, pumping, cleaning up, and storing the milk.
3. Third, the new provision's space requirements require employers to make a private room available for use if possible. Where that's not possible, employers can create a space by using partitions or curtains and covering all windows. Further, the employee's privacy must be ensured through appropriate signage or a lock on the door.

The space itself need not be dedicated to nursing; it is enough that the space be available to nursing mothers when needed. At a minimum, the space must contain a place to sit and a flat surface (other than the floor) on which to place a pump. Ideally, the space would also have access to electricity, running water, and a clean refrigerator for the storage of milk. While these additional features are not required by the new law, the DOL has noted that their provision may decrease the time needed by nursing employees.

**IUPUI Nursing Mothers' Rooms can be found at the following locations on campus:**

1. **Engineering Building, 799 W. Michigan, Room 130A**
2. **Union Building, 620 Union Drive, Room 130**
3. **HITS Building, 410 W. 10<sup>th</sup> (1<sup>st</sup> floor, north side of building, just past elevator)**
4. **Administration Building, (located on its west-end Women's restroom)**

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