



DISABILITY RIGHTS BAR ASSOCIATION

Disability Rights Bar Association
Quarterly educates advocates on federal government guidance and updates, recently enacted legislation, new regulations and proposed rules, issued reports, and additional news.

Federal Updates 1
 Legislation..... 3
 Regulations 4
 Reports and Events . 5
 Other Disability Rights Newsletters .. 6

Special thanks to DRBA member, Danica Gonzalves, Advocacy Attorney with Paralyzed Veterans of America, for compiling this newsletter.

This is the first edition of this newsletter. DRBA members are encouraged to share cases or policy information for inclusion in future newsletters. Suggested articles for the next quarterly newsletter are due by July 1st, 2022, to Heather Ansley, DRBA Policy Committee Chair, HeatherA@PVA.org.

FEDERAL UPDATES

WHITE HOUSE ANNOUNCES PLAN TO ADDRESS NEEDS OF PEOPLE WITH DISABILITIES AND OLDER ADULTS IN RESPONSE TO COVID-19

On February 24, 2022, the White House released a [fact sheet](#) regarding steps the Administration will take to further ensure that individuals with disabilities have equitable access to COVID-19 testing, masks, and other critical mitigation strategies. Specifically, the Administration will: equip schools with guidance and support to keep students safe and learning in-person; expand the Department of Health & Human Services Disability Information and Access Line; launch new testing guidance in American Sign Language; develop at-home tests that are accessible to all; incentivize at-home test manufacturers to prioritize accessibility; request accessible instructions from manufacturers; and distribute masks through community-based organizations.

HHS ISSUES FAQ'S FOR HEALTHCARE PROVIDERS REGARDING FEDERAL CIVIL RIGHTS FOR INDIVIDUALS WITH DISABILITIES

The Department of Health and Human Services (HHS) Office for Civil Rights underscored that civil rights protections remain in full force and effect during the COVID-19 pandemic. The [FAQ's](#) outline guidance under Section 504 of the Rehabilitation Act and Section 1557 of the Affordable Care Act, which prohibit discrimination on the basis of disability. Examples of the questions cover whether a provider can consider that an individual with a disability may have a lower quality of life when prioritizing treatment; application of federal laws to restrictions on visitors; and vaccination, testing, and contact tracing programs.

ACCESS BOARD PROVIDES RECOMMENDATION TO ASSIST FEDERAL AGENCIES IN ADVANCING PRIORITIES FOR ACCESSIBILITY

Under [Executive Order 14035](#), federal agencies must ensure their workplaces are fully accessible. On March 8, 2022, the U.S. Access Board released [recommendations and resources](#) to assist agencies in promoting and enhancing accessibility. These include information for employees on filing an Architectural Barriers Act complaint; tips on workplace accessibility practices and guides; webinars; and technical assistance. Resources also include information on Section 508 of the Rehabilitation Act to ensure access to information and communication technology, such as hardware and software and agency websites.

DOJ ISSUES GUIDANCE ON BALLOT DROP BOX ACCESSIBILITY REQUIREMENTS

The Department of Justice (DOJ) recently released guidance on how to ensure that ballot drop boxes are accessible to voters with disabilities. The publication, "[Ballot Drop Box Accessibility, The Americans with Disabilities Act](#)," informs election officials about ADA requirements, including physical accessibility, and helps voters understand their rights. The publication addresses requirements such as an accessible route to the drop box, accessibility features of the drop box, and includes a [checklist](#) of accessibility standards.

WHITE HOUSE CALLS FOR PROTECTION OF SENIORS BY IMPROVING SAFETY & QUALITY OF NURSING HOMES

The White House issued a [factsheet](#) to improve the quality of nursing homes so that seniors, people with disabilities, and others receive reliable, high-quality care. President Biden called for reforms to ensure that every nursing home has a sufficient number of trained staff, poorly performing homes are held accountable and cut off from taxpayers' dollars, and the public has better information about nursing home conditions.

EEOC ISSUES GUIDANCE ON EMPLOYMENT DISCRIMINATION AGAINST CAREGIVERS

Federal employment discrimination laws cover caregivers of individuals with disabilities. On March 15, 2022, the Equal Employment Opportunity Commission issued guidance entitled, "[The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Laws](#)," which discusses when discrimination against applicants and employees related to pandemic caregiving responsibilities may violate federal laws.

988 MENTAL HEALTH CRISIS RESPONSE LINE LAUNCHES IN JULY

In July 2022, the Department of Health and Human Services will launch the [988](#) mental health crisis service hotline as part of the [strategy to address the national mental health crisis](#). The new three-digit number for the National Suicide Prevention Lifeline will allow individuals to access trained counselors and responders during mental health crises. Funding will also support local capacities to answer crisis calls and establish more community-based mobile crisis response and crisis stabilization facilities. The strategy intends to strengthen the system capacity, connect more individuals to care, and create a continuum of support.

JUDGE KETANJI BROWN JACKSON CONFIRMED TO SUPREME COURT

On March 31, 2022, the Senate confirmed Judge Ketanji Brown Jackson to the U.S. Supreme Court. Judge Jackson has favorably ruled for individuals with disabilities. In [Equal Rights Str. V. Uber Techs.](#), Judge Jackson denied Uber's motion to dismiss allegations that its wheelchair accessible service is significantly less reliable than its standard service, in violation of the ADA. Specifically, she determined that Uber's failure to modify its policies for wheelchair-accessible vehicles was plausibly discriminatory. In [Pierce v. District of Columbia](#), Judge Jackson held that prison officials acted with "deliberate indifference" to a deaf incarcerated individual's needs for accommodations and awarded the plaintiff compensatory damages. In considering the Individuals with Disabilities Education Act (IDEA), in [Schiff v. District of Columbia](#), Judge Jackson upheld the plaintiff's motion for summary judgment, finding that the school violated the IDEA after expelling a student with disabilities and failing to identify new location services. On March 18, 2022, 43 disability rights organizations and advocates sent a [letter](#) to Senator Dick Durbin (D-IL), Chair of the Judiciary Committee, and Senator Chuck Grassley (R-IA), Ranking Member of the Judiciary Committee, in support of the nomination.

LEGISLATION

DOT MEETS WITH ADVOCATES TO DISCUSS ACCESSIBLE AIR TRAVEL

The Air Carrier Access Amendments Act ([H.R. 1696/S. 642](#)) of 2021 (ACAA) seeks to remove barriers in air travel accessibility. The Act ensures that new airplanes are designed to meet defined accessibility standards; requires removal of access barriers on existing airplanes to the extent that is readily achievable; and establishes a private right of action. The Senate bill was referred to the Committee on Commerce, Science and Transportation, and the House Bill was referred to the Subcommittee on Aviation. On March 24, 2022, the Department of Transportation (DOT) hosted a [meeting](#) to talk about the problems that wheelchair users face in air travel. [Comments](#) from the public will be accepted until April 25, 2022.

DISABLED ACCESS CREDIT EXPANSION ACT (H.R. 4714/S. 2481)

The Disabled Access Credit Expansion Act ([H.R. 4714/S. 2481](#)) would improve compliance with the Americans with Disabilities Act (ADA) by increasing the ceiling on eligible expenses for the tax credit from 50 percent of \$10,250 to 50 percent of \$20,500 and expanding eligibility to include small businesses with gross receipts of \$2.5 million or less. It would also index the ceiling to inflation. Furthermore, it would codify DOJ's ADA Mediation Program, which is meant to help individuals with disabilities and businesses reach a resolution without increased litigation. In addition, it would authorize \$1 million for FY 2022 to support these efforts and require biannual reports to Congress on the program's effectiveness and require the DOJ to provide a report to Congress regarding the calls the ADA Information Line receives. The data collected would be used to make improvements to better assist individuals with disabilities regarding their rights under the law. The Act continues to be reviewed by Congress.

SOCIAL SECURITY 2100 SEEKS TO STRENGTHEN DISABILITY BENEFITS

The Social Security Act 2100: A Sacred Trust Act ([H.R. 5723/S. 3071](#)) strengthens and enhances social security benefits. The Act will provide increased benefits for all beneficiaries to make up for inadequate Cost-of-Living Adjustments (COLA); improve COLA formula with CPI-E formula; enhance minimum benefits; raise taxation thresholds; end the five-month waiting period; enhance caregiver credits; and end certain public pension offsets. The House sponsor, Rep. John Larson (D-Conn) [spoke](#) with The Intercept's Ryan Grim and Jon Schwarz to discuss why he thinks an expansion of Social Security is overdue.

LUKE AND ALEX SCHOOL SAFETY ACT SEEKS TO IMPROVE SCHOOL SECURITY

The Luke and Alex School Safety Act of 2021 ([H.R. 750/S. 111](#)) requires the Department of Homeland Security (DHS) to codify the [Federal Clearinghouse on School Safety](#). The Clearinghouse informs parents and educators on expert recommendations and best practices that schools can implement to improve school safety. The Act requires the Clearinghouse to establish best practices for use by educational institutions, law-enforcement agencies, health professionals, and the public. DHS would also collect data analytics, user feedback, and review evaluations conducted on best practices and recommendations. Under the Act, DHS must assess and identify best practices and establish an advisory board to provide feedback and recommendations. However, violence risk assessments, threat assessments, and preemptive use of law enforcement are found to be [discriminatory](#) against students of color and students with disabilities. The Act is currently being reviewed by the Committee on Homeland Security and Governmental Affairs.

CALIFORNIA PASSES LAW TO COMPENSATE VICTIMS OF FORCED STERILIZATION

California passed a law to launch a new program to compensate survivors of forced or involuntary sterilization. From 1909 to 1979, under eugenics laws, thousands of people living in state-run hospitals, homes, and institutions were sterilized, affecting individuals with disabilities. After 1979, the sterilizations continued in correctional facilities. Starting January 1, 2022, survivors can apply for compensation through California's Forced or Involuntary Sterilization Compensation Program, administered by the California Victim Compensation Board. The non-taxable compensation will be paid to the claimant or their trust. Information about the program and applications can be accessed online: <https://victims.ca.gov/fiscp/>.

MISSISSIPPI PASSES "COLE'S LAW" REGARDING OREGON TRANSPLANTS

Mississippi's "[Cole's Law](#)" prohibits medical providers from denying an individual with a disability an organ transplant, solely on the basis of a disability. On March 3, 2022, the governor signed the bill into law. This was the third time the bill was introduced, but it died in 2020 and 2021.

CONNECTICUT SENATE REVIEWS DEATH WITH DIGNITY BILL

Connecticut Senate Bill 88, "[An Act Concerning Aid in Dying for Terminally Ill Patients](#)", looks to permit terminally-ill patients to obtain a physician's help to end their lives. Similar bills show health disparities and unequal treatment experienced by individuals with disabilities. In March, the bill was filed with the Legislative Commissioners' Office.

REGULATIONS

NHTSA ISSUES RULE TO IMPROVE AUTO ACCESSIBILITY

On March 10, 2022, the National Highway Traffic Safety Administration (NHTSA) finalized a [new rule](#) to improve equity and mobility for drivers and passengers with disabilities. The rule allows rental car companies to temporarily disable knee bolster air bags to install hand controls, allows installation of rear-mounted transporters for wheelchairs and power scooters, and permits modifiers to raise the height of a vehicle's roof. The modifications allow vehicle dealers and repair businesses to remove barriers and improve mobility.

ACCESS BOARD RELEASES FINAL RULE ON MDE

On February 3, 2022, the U.S. Access Board issued a direct [final rule](#) related to its standards for medical diagnostic equipment (MDE) covered by Section 510 of the Rehabilitation Act. The MDE Standards, originally published in 2017, established minimal technical criteria to ensure that MDE, such as examination tables, scales, and imaging equipment, is accessible. The standards included "sunset provisions" related to the low height specifications for transfer surfaces, initially set to expire in early 2022. The direct final rule extends the sunset provisions for an additional three years. The extension will provide the Board time to complete necessary research to determine the appropriate, final specification height.

DHS ISSUES NPRM ON PUBLIC CHARGE

On February 24, 2022, the Department of Homeland Security (DHS) issued a [Notice of Proposed Rulemaking](#) (NPRM) that would regulate how it would apply the public charge ground of inadmissibility. The proposed rule would provide fair and humane treatment for noncitizens requesting admission to the United States or applying for lawful permanent residence. DHS proposed to define "likely at any time to become a public charge" as "likely to become primarily dependent on the government for subsistence" through either the use of cash assistance benefits or long-term hospitalization care at the government's expense. The previous [2019 Public Charge Final Rule](#) considered an applicant's likelihood of receiving Medicaid, public housing, or Supplemental Nutrition Assistance Program (SNAP) benefits as part of the public charge inadmissibility determination, resulting in discrimination against individuals with disabilities. The proposed rule has a 60-day public comment period.

HHS OCR HOLDS SECTION 504 LISTENING SESSIONS

The U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) is conducting a series of virtual listening sessions with key stakeholders regarding OCR's intent to publish a Notice of Proposed Rulemaking (NPRM) to revise regulations under Section 504 of the Rehabilitation Act of 1973 to address unlawful discrimination on the basis of disability in HHS-funded health and human services programs and in HHS's own programs and activities. Topics included non-discrimination in life-sustaining care, organ transplantation, health care value assessment methodologies, accessible medical equipment, auxiliary aids and services, Crisis Standards of Care, and other equitable healthcare issues. OCR is considering statutory changes to Section 504 to be consistent with the Americans with Disabilities Act. HHS is seeking feedback from stakeholders, including individuals with disabilities and family members; disability advocacy organizations; medical providers; state and local agencies; and other interested parties. The NPRM is scheduled to be issued in 2022.

ADVOCATES URGE DOJ TO ISSUE RULES ON WEBSITE ACCESSIBILITY

On February 28, 2022, 181 disability organizations jointly signed [letters](#) to the Department of Justice (DOJ) and Congress to urge the prioritization of rulemaking on digital accessibility regulations. The letters to U.S. Assistant Attorney General Kristen Clark, Senator Bob Casey (D-PA), Senator Dick Durbin (D-IL), Senator Tammy Duckworth (D-IL), and Senator Amy Klobuchar (D-MN) reiterated that the Americans with Disabilities Act (ADA) covers websites and other technologies. DOJ has yet to define clear standards for digital accessibility and obligations under the ADA. The letters emphasized that the absence of regulations results in persistent barriers in digital spaces. The organizations called on the Senators to contact DOJ to reiterate the issue and urged DOJ to complete the rulemaking process by the end of the current Administration. On March 18, 2022, DOJ released website accessibility [guidance](#) for ADA Title II and Title III entities.

REPORTS AND EVENTS

2021 ANNUAL REPORT ON PEOPLE WITH DISABILITIES

The Rehabilitation Research and Training Center on Disability Statics and Demographics (StatsRRTC), part of the Institute on Disability at the University of New Hampshire, released their 2021 Annual Report on People with Disabilities. The Annual Report focuses on national trends to track the progress of individuals with disabilities using key social and economic indicators such as employment, health, community living, and other outcomes monitoring well-being. These statistics are a powerful tool in research, policymaking, program evaluation, and advocacy. The Annual Report, Compendium, Supplement, and infographics can be accessed on their website: <https://disabilitycompendium.org/>.

NCD HEALTH EQUITY FRAMEWORK FOR PEOPLE WITH DISABILITIES

The National Council on Disability (NCD) has released the [Health Equity Framework](#) to acknowledge the health disparities experienced by individuals with disabilities, such as physical and systematic barriers to health care access, and the desire to address these inequalities and achieve health equity. The Framework has four core areas that NCD views as a foundation for achieving equity including: designating people with disabilities as a Special Medically Underserved Population under the Public Health Services Act; requiring comprehensive disability clinic-care curricula in medical professional schools; requiring the use of accessible medical and diagnostic equipment; and improving data collection concerning health care for people with disabilities.

THE U.S. ACCESS BOARD HOSTED AN EVENT TO ADDRESS HEALTHCARE EQUITY

On January 12, 2022, The U.S. Access Board streamed a presentation, "Equity in Healthcare for People with Disabilities," to review standards, resources, and best practices to ensure healthcare equity. Review the recording and presentation materials on the Access Board's website: <https://www.access-board.gov/news/2022/01/13/u-s-access-board-hosts-virtual-event-on-equity-in-healthcare-for-people-with-disabilities/>.

NDRN ISSUES REPORT ON INFORMAL REMOVAL OF STUDENTS WITH DISABILITIES FROM PUBLIC SCHOOL

National Disability Rights Network (NDRN) released a report, "[Out of the Shadows: Informal Removal of Children with Disabilities from Public Schools](#)," emphasizing the harm that school removal does to all children. The publication calls for data collection and eliminating informal removals.

DOL RELEASES DATA REGARDING BLACK WORKERS WITH DISABILITIES

The Department of Labor (DOL) analyzed [data](#) regarding Black workers with disabilities. The data looks at the number of Black workers with disabilities, their employment status, industries, and occupations.

IMPACT OF COMPETITIVE INTEGRATED EMPLOYMENT FOR INDIVIDUALS WITH I/DD

Virginia Commonwealth University, Rehabilitation Research and Training Center (VCU-RRTC) reviewed the [impact of competitive integrated employment on economic, psychological, and physical health outcomes for individuals with intellectual and development disabilities](#). The review found positive results supporting beneficial evidence of competitive integrated employment beyond the employment itself.

OTHER DISABILITY RIGHTS NEWSLETTERS

Subscribe to other disability rights and advocates' newsletters for more information on the issues impacting individuals with disabilities and efforts to promote civil rights.

[Disability Inclusive Employment Policy
Rehabilitation Research and Training Center](#)

[Disability Rights Advocates](#)

[Disability Rights International](#)

[Seyfarth Shaw's ADA Title III News & Insights Blog](#)

[ADA Southeast Newsletter: ADA and Access Matters](#)

[ADA News from the Mid-Atlantic ADA Center](#)

[Disability Rights Education & Defense Fund](#)

[Disability Scoop](#)