



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.

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

This is the third 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 December 31st, 2022, to Heather Ansley, DRBA Policy Committee Chair, HeatherA@PVA.org.

FEDERAL UPDATES

DOJ ANNOUNCES UPCOMING TITLE II WEBSITE ACCESSIBILITY REGULATIONS

The U.S. Department of Justice (DOJ) announced its intent to publish a [Notice of Proposed Rulemaking](#) (NPRM) on accessibility of web information and services of state and local governments under Title II of the Americans with Disabilities Act (ADA). The NPRM proposes to amend Title II ADA regulations to provide technical standards to assist public entities in complying with existing antidiscrimination requirements under the ADA.

DOT ISSUES PASSENGER BILL OF RIGHTS

In July 2022, the U.S. Department of Transportation (DOT) published a [Passenger Bill of Rights](#) as a living document to protect individuals with disabilities. The Bill of Rights applies to all flights of U.S. Airlines, flights to or from the U.S. by foreign airlines, and airline contractors. The document clarifies passengers with disabilities' rights, including to be treated with dignity and respect, accessible airports, traveling with an assistive device or service animal, accessible aircraft features, and resolution of disability-related issues.

ACCESS BOARD RELEASES DESIGN RECOMMENDATIONS FOR EV CHARGING STATIONS

The U.S. Access Board released [design recommendations](#) for accessible electric vehicle (EV) charging stations. The Bipartisan Infrastructure Law includes [dedicated funding](#) through the National Electric Vehicle Infrastructure Formula Program (NEVI) and Discretionary Grant Program for Charging and Refueling Infrastructure to install a national network of 500,000 EV charging stations. The technical assistance document covers the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) accessibility requirements applicable to EV charging stations and clarifies the differences between EV charging spaces and parking spaces. The recommendations also offer guidance on elements not covered under the ADA or ABA.

HHS ISSUES ACA SECTION 1557 NPRM

On July 25, 2022, the U.S. Department of Health and Human Services (HHS) issued a [Notice of Proposed Rulemaking](#) (NPRM) to strengthen Section 1557 of the Affordable Care Act, which prohibits discrimination on the basis of race, color, national origin, sex, age, and disability in certain health programs and activities. The NPRM applies to programs that receive federal assistance from HHS, such as Medicaid; Medicare Part B, C, and D; and HHS grant programs. The NPRM clarifies that nondiscrimination requirements apply to telehealth services, requires covered entities to provide a notice of nondiscrimination along with a notice of the availability of auxiliary aids and services, and prohibits the overreliance of clinical algorithms for decision-making.

FTA ANNOUNCES ASAP FUNDING TO MAKE LEGACY RAIL STATIONS ACCESSIBLE

On July 26, 2022, the Federal Transit Administration (FTA) [announced](#) the [All Stations Accessibility Program](#) (ASAP), a new discretionary grant program created by the Bipartisan Infrastructure Law that will provide \$1.75 billion to increase accessibility of legacy rail systems. Over 900 transit legacy stations, those built before 1990, are not fully accessible. The funding will assist stations in repairing, improving, modifying, retrofitting, or relocating infrastructure of passenger facilities.

DOJ AND HHS ISSUE GUIDANCE ON NONDISCRIMINATION IN TELEHEALTH

In collaboration, the U.S. Department of Justice (DOJ) and U.S. Department of Health and Human Services (HHS) issued [guidance](#) on nondiscrimination in telehealth, to ensure accessibility to individuals with disabilities and limited English proficient persons. The guidance states that entities subject to federal nondiscrimination laws should review their telehealth systems, policies, and processes to ensure accessibility for all people with disabilities, and includes specific examples of actions to be taken as well as resources for providers and patients. The agencies committed to ensuring providers who use telehealth do so in a nondiscriminatory manner.

ACCESS BOARD PUBLISHES TECHNICAL BULLETINS ON SIGNAGE

To celebrate the 54th anniversary of the Architectural Barriers Act (ABA), the U.S. Access Board issued a [technical bulletin](#) that covered signage requirements under the [Americans with Disabilities Act](#) (ADA) and [ABA](#). The standards cover, among other elements, raised characters, finish and contrast, and signage locations.

DOJ UPDATES IMPROPER SCHOOL SECLUSION POLICIES

The U.S. Department of Justice (DOJ), Civil Rights Division, Educational Opportunities Section (EOS) enforces Title II of the Americans with Disabilities Act (ADA) against [improper seclusion](#) of students with disabilities. EOS resolved complaints alleging school districts used seclusion, without justification, for inappropriate behavior and classroom management. In September 2022, EOS reached a [settlement](#) with Cedar Rapids Community School District to end the district's use of seclusions for students with disabilities. More information about EOS' efforts can be found [online](#).

DOE'S NEW GUIDANCE AND RESOURCES EXPLAIN HOW TO AVOID DISCRIMINATORY DISCIPLINE FOR STUDENTS WITH DISABILITIES

On July 19, 2022, the U.S. Department of Education (DOE), Office for Civil Rights (OCR) and Office of Special Education and Rehabilitative Services released [guidance and resources](#) to avoid discriminatory use of discipline for students with disabilities. The resources include a student discipline [fact sheet](#), [questions and answers](#) addressing the needs of children with disabilities under the Individuals with Disabilities Education Act's (IDEA) discipline provisions, a [guide for stakeholders](#), and a [letter](#) from U.S. Secretary of Education, Miguel A. Cardona.

EEOC UPDATES Q&A ON COVID-19

The U.S. Equal Employment Opportunity Commission (EEOC) [updated](#) its questions and answers (Q&A) section on COVID-19 and disability discrimination laws. New questions answered included whether an employer may administer a mandatory COVID-19 viral or antibody test, whether an employer can screen job applicants for symptoms of COVID-19 and postpone a start date, and what does an employee need to do in order to request reasonable accommodations because they have a medical condition that puts them at higher risk for severe illness from COVID-19.

PRESIDENT BIDEN CELEBRATES THE ADA

On September 28, 2022, President Biden made a [speech](#) to celebrate the Americans with Disabilities Act (ADA) and acknowledge the disability pride movement. He recognized the ADA as, “the key to equality, opportunity, and independence.” President Biden highlighted the Administration’s work to protect individuals with disabilities, including fighting to end sub-minimum wages, helping employers hire more individuals with disabilities, using the Bipartisan Infrastructure Law to make transit accessible, expanding high-speed internet access, and increasing access to healthcare.

U.S. ACCESS BOARD VISITS INDEPENDENCE NATIONAL HISTORICAL PARK

The U.S. Access Board [visited](#) the National Park Service’s Independence National Historical Park to learn about Philadelphia’s accessibility. Board members met with the park’s representatives, tried out various accessible accommodations, and engaged in a discussion about plans for future accessibility plans. The park highlights its [accessibility features](#) online.

U.S. ACCESS BOARD HOLDS ACCESSIBILITY TRAININGS IN PHILADELPHIA

The U.S. Access Board held seven [free public trainings](#) on accessibility of built environments and information and communication technology. Trainings included an overview of the Americans with Disabilities Act and Architectural Barriers Act accessibility standards, making documents accessible, and accessibility in historic buildings and facilities. PowerPoints from the trainings can be accessed [online](#).

WINNERS OF INCLUSIVE DESIGN CHALLENGE ANNOUNCED

On the 32nd Anniversary of the Americans with Disabilities Act (ADA), the U.S. Department of Transportation (DOT) [announced](#) the winners of its first-ever [Inclusive Design Challenge](#), which focused on innovative designs to enhance mobility for individuals with disabilities and provide equal access to automated vehicles (AVs). Purdue University was awarded \$1 million for developing a life sized, operational demonstration [platform](#) that incorporates design features for people with physical and sensory disabilities. AbleLink Smart Living Technologies received \$700,000 for developing the [WayFinder](#) automated driving system and University of Maine was awarded \$300,000 for the development of [Ava](#), a ride-hailing assistant.

ORGANIZATIONS WRITE LETTER TO CFPB TO BAN MEDICAL DEBT FROM CREDIT REPORTS

On September 23, 2022, over ninety organizations signed a [letter](#) to the Consumer Financial Protection Bureau (CFPB) requesting rulemaking that would prohibit medical debts from appearing on credit reports, if the debts arose from medically necessary services. More than [one in four](#) (26.5%) households with at least one member with a disability have medical debt compared to 14.4% of households with no members with disabilities. Medical debts on credit reports lead to barriers in employment or housing. The letter states, “Removing medical debts from appearing in credit reports furthers the objective of treating consumers fairly and equitably.”

LEGISLATION

BICAMERAL WEBSITE AND SOFTWARE APPLICATION ACCESSIBILITY BILLS INTRODUCED

U.S. Senator Tammy Duckworth (D-IL) and U.S. Representative John Sarbanes (D-MD) [introduced](#) legislation, the Website and Software Applications Accessibility Act ([S.4998/H.R.9021](#)) to clarify that entities covered under the Americans with Disabilities Act (ADA) must maintain accessible websites and software applications. The legislation would establish clear accessibility standards, a technical assistance center, and an advisory committee to provide guidance for development and maintenance of websites and applications. The bills also direct the U.S. Department of Justice (DOJ) and U.S. Equal Employment Opportunity Commission (EEOC) to issue, enforce, and periodically update regulations to ensure individuals with disabilities have equal access to websites and software applications. The bill requires DOJ and EEOC to issue regulations within two years after passage of the law.

LETTER TO SPEAKER PELOSI REQUESTS DISABILITY PROTECTION IN THE AAPDA

In response to the introduction of the [Americans Data Privacy & Protection Act](#) (AAPDA) (H.R.8152), twenty-seven disability advocacy groups sent a [letter](#) to Congresswoman Nancy Pelosi (D-CA), requesting the bill be retained and improved. The letter noted that researchers and technology companies' efforts to create algorithms may reveal information that can identify people with disabilities, be used to infer a person's disability status, or identify past or predicted future experiences of disabilities. In effect, this data can be used to discriminate against people with disabilities. The letter requested Speaker Pelosi retain the protections for people with disabilities beyond those available in other applicable disability rights laws. DRBA signed on to the letter.

REPRODUCTIVE HEALTH CARE ACCESSIBILITY ACT INTRODUCED

Senator Patty Murray (D-WA) and Senator Tammy Duckworth (D-IL) [introduced](#) the [Reproductive Health Care Accessibility Act](#) (S.4764) to lower barriers to sexual and reproductive care and ensure individuals with disabilities have timely access to culturally competent health care. The bill would provide grant funding to eligible entities to carry out training programs for health care providers, expand the physician and nursing workforce, provide grant funding for education programs focused on sexual and reproductive health care needs of people with disabilities, establish a new technical assistance center to provide recommendations and best practices, and direct the U.S. Department of Health and Human Services (HHS) to carry out a study to analyze reproductive health care for people with disabilities.

CASES

DOJ SETTLES WITH KY COUNTY FOR ACCESSIBLE POLLING SITES

The U.S. Department of Justice (DOJ) reached a [settlement agreement](#) with the Board of Elections for Jefferson County, Kentucky, to ensure polling places are physically accessible for voters with disabilities. After a survey of twenty-two polling places used in the November 2019 elections, DOJ found all twenty-two contained non-compliant elements under the Americans with Disabilities Act (ADA) that caused the facility to be inaccessible. Under the agreement, the board must use accessible polling places for individuals with mobility or vision disabilities and remove existing physical barriers at polling places or relocate to polling places to accessible facilities. In future elections, the board must maintain all accessibility features and equipment and follow the [ADA checklist for polling places](#) and [ballot drop box requirements](#).

UBER WILL REFUND FEES AND PROVIDE WAIVERS FOR WAIT TIMES

As a result of a [settlement](#) with the U.S. Department of Justice (DOJ), Uber will pay millions of dollars in wait time fee refunds to customers with disabilities. In April 2016, Uber began charging customers wait time fees if the rider was unable to board the vehicle within two minutes. The [lawsuit](#), filed in November 2021, alleged Uber violated the Americans with Disabilities Act (ADA) by failing to modify its policy for individuals, because of their disability, who may need additional time to board the car. Under the two-year agreement, Uber will waive wait time fees for riders with disabilities, or someone who frequently travels with an individual with a disability, who self-certify they need additional time to get into a vehicle. Uber will credit more than 65,000 eligible riders double the amount of wait time fees charged and pay more than \$1,700,000 to over one thousand riders who complained to Uber about being charged a wait time fee due to their disability.

FIFTH CIRCUIT HOLDS DEFENDANT ENTITLED TO SIGN LANGUAGE INTERPRETERS DURING CRIMINAL PROCESS

In *Luke v. State of Texas*, a Deaf man was arrested for marijuana possession. Throughout his encounter with the criminal justice system – during his arrest, court proceedings, and interactions with probation officers – he was denied a sign language interpreter. The U.S. Court of Appeals for the Fifth Circuit [held](#) that denying him a sign language interpreter throughout his criminal proceedings violated Title II of the Americans with Disabilities Act (ADA). The ADA requires auxiliary aids, including qualified interpreters, as a reasonable accommodation. The court determined that failure to provide sign language interpreters resulted in a lack of meaningful access to public services.

OREGON CASE ON SEGREGATED WORK SETTINGS CONCLUDES

The U.S. District Court for the District of Oregon [found](#) Oregon fulfilled its 2015 settlement agreement with the U.S. Department of Justice (DOJ), which required the state to provide supported employment and related services to sheltered workshop workers and youth exiting school with intellectual and developmental disabilities. The intent was that the new jobs would have competitive wages and integrated, competitive employment opportunities. The case, *Lane v. Brown/United States v. Oregon*, was dismissed as a result of fulfilling the agreement. The case was the first lawsuit to challenge a state's reliance on sheltered workshops and how Title II of the Americans with Disabilities Act applied to state employment services.

FOURTH CIRCUIT HOLDS GENDER DYSPHORIA IS A PROTECTED DISABILITY

The U.S. Court of Appeals for the Fourth Circuit [affirmed](#) that transgender people are protected from discrimination under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act in all public institutions, including carceral settings, and gender dysphoria is a disability. In the case *Williams v. Kincaid*, the plaintiff, a transgender woman in a Virginia men's prison, argued the denial of care related to her gender dysphoria was a violation of the ADA and Section 504. The Fourth Circuit held that gender dysphoria does not fall within the ADA's exclusion for gender identity disorders, not resulting from physical impairments.

AFTER DOJ FILES SOI IN WISCONSIN VOTING CASE, STATE ISSUES VOTING GUIDANCE

On August 18, 2022, the U.S. Department of Justice (DOJ) filed a [Statement of Interest](#) (SOI) in *Carey, et al. v. Wisconsin Election Commission, et al.*, to clarify the obligation to provide assistance to voters with disabilities under Section 208 of the Voting Rights Act (VRA) and Title II of the Americans with Disabilities Act (ADA). The plaintiffs in the case are individuals with physical disabilities who require ballot return assistance in order to vote, but [claimed](#) a Wisconsin law violated the VRA and the Title II of the ADA by barring the assistance they need to return their absentee ballots.

In the SOI, DOJ clarified that the VRA guarantees assistance to voters with disabilities who need assistance delivering their absentee ballot, state law cannot replace the VRA, and ballot assistance return is a reasonable modification under the ADA. After the U.S. District Court's [opinion](#), the Wisconsin Election Commission issued [guidance](#) that any Wisconsin voter who requires assistance with mailing or delivering their absentee ballot,

because of a disability, must be permitted to receive assistance by a person of the voter's choice, other than the voter's employer, or agent of that employer, or officer or agent of the voter's union.

DOJ RESOLVES HIV DISCRIMINATION LAWSUIT AGAINST INDIANA TOWN

The town of Clarkesville, Indiana agreed to a [consent decree](#) with the U.S. Department of Justice (DOJ) to settle a lawsuit after an individual claimed his civil rights were violated when the police department rescinded a job offer due to his HIV status. Under the agreement, the town is required to pay the individual \$150,000 in compensatory damages, issue an affidavit that he is eligible for rehire with the police department, review its medical examination policies, and train its employees and consultants on Title I of the Americans with Disabilities Act.

CHICAGO CUBS SUED FOR FAILING TO PROVIDE ADEQUATE WHEELCHAIR SEATING AND REMOVE PHYSICAL BARRIERS

The U.S. Attorney's Office for the Northern District of Illinois filed a [lawsuit](#) against the Chicago Cubs, alleging the team failed to ensure recent alterations and construction at Wrigley Field were appropriately accessible for individuals with disabilities as required by the Americans with Disabilities Act (ADA). The Cubs recently completed a multi-year renovation, expansion, and reconstruction of Wrigley Field. However, the complaint alleges the renovations removed the best wheelchair seating in the stadium, failed to incorporate wheelchair seating into the new premium clubs and group seating areas, and failed to remove architectural barriers in other portions of the stadium leading to a significant adverse impact on individuals with disabilities. The lawsuit requests the Cubs fix the deficiencies, award compensatory damages to the defendants who suffered from the inaccessibility, and pay civil fines.

SPRINGFIELD, IL PAYS OVER \$290,000 FOR VIOLATING THE FAIR HOUSING ACT

After three residents with disabilities moved into a single-family home in Springfield, Illinois, where they received community residential services, the city attempted to shut down the home, citing a city regulation prohibiting two home for individuals with disabilities operating within 600 feet of each other. The U.S. Department of Justice (DOJ) [sued](#) the city arguing the city violated the Fair Housing Act (FHA), which prohibits discriminatory city zoning laws. The U.S. District Court for the Central District of Illinois Springfield Division [held](#) the city violated the FHA by enforcing the ordinance and granted summary judgment. On July 26, 2022, a federal jury [awarded](#) \$293,000 damages, \$162,000 to the residents and their guardians and \$131,000 in compensatory damages to the service provider.

NURSING HOMES AGREE TO PROVIDE SIGN LANGUAGE INTERPRETING SERVICES

Owners of a nursing home in Tappahannock, Virginia, who hold interest in twelve other nursing homes, [settled](#) an Americans with Disabilities Act (ADA) lawsuit alleging they denied admission to a Deaf individual because she would need sign language interpreting services. Under the agreement with the U.S. Attorney's Office for the Eastern District of Virginia, the facility owners will pay monetary damages and a civil penalty, adopt new ADA guidelines at all thirteen nursing homes, and provide sign language interpreting services

EEOC SUES HOBBY LOBBY FOR REFUSING EMPLOYEE'S SERVICE DOG

The U.S. Equal Employment Opportunity Commission (EEOC) filed a [lawsuit](#) under Title I of the Americans with Disabilities Act (ADA) and Title I of the Civil Rights Act against Hobby Lobby for failure to provide reasonable accommodations, to allow an employee to bring her service dog for post-traumatic stress disorder. Although the store allows customers' service dogs, after a request for reasonable accommodations, Hobby Lobby determined the dog would be a safety concern. After the employee told Hobby Lobby she could not work without her service dog, she was fired. The EEOC is seeking back pay, compensatory and punitive damages, employment reinstatement, and injunctive relief to prevent future discrimination.

DOJ INTERVENES IN SAN JUAN INACCESSIBLE SIDEWALKS CASE

In the case of [Betancourt-Colon et al v. City of San Juan](#), individuals with mobility disabilities sued the city of San Juan, Puerto Rico, alleging the city violated Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act by failing to install and maintain curb ramps on its sidewalks. The complaint alleged the city's curb ramps are cracked, too steep, or nonexistent, and the walkways are uneven, too narrow, or obstructed, which fails to provide equal access to the city's sidewalk system. The city initially argued that the plaintiffs were not excluded from any service and requested the case be dismissed. The plaintiffs amended their complaint, arguing the insufficient sidewalks prevented them from accessing public facilities or attending public functions, which are services, programs, or activities. The U.S. Department of Justice (DOJ) [intervened](#) in the case, responding that it intends to ensure necessary steps are taken to make the city's sidewalks, curb ramps, and crosswalks accessible to all city residents and visitors.

DEAF DENVER DISABILITY RIGHTS ATTORNEY EXCLUDED FROM JURY

Spencer Kontnik, a Deaf disability rights attorney, and the Colorado Cross-Disability Coalition filed a [lawsuit](#) against the Denver County Court alleging the court discriminated against Kontnik by excluding him from jury service, on the basis of his hearing disability, in violation of the Colorado Anti-Discrimination Act (CADA). The complaint alleges that when Kontnik arrived to jury selection, an interpreter met him in the hallway and explained the judge had already excluded him from jury service. The [amended complaint](#) states that Kontnik is bringing the lawsuit to protect his rights and fulfill his civic duty.

PHILADELPHIA RESTAURANT MUST REMOVE ARCHITECTURAL BARRIERS

After an inspection of Philadelphia restaurants, the U.S. Attorney's Office for the Eastern District of Pennsylvania secured an [agreement](#) with Del Frisco's Double Eagle Steakhouse, which had numerous architectural barriers in violation of the Americans with Disabilities Act (ADA). The agreement requires the restaurant to remove specific barriers in their Philadelphia location and also identify and correct ADA violations in its thirty-three other restaurants nationwide.

COMMUNITY-BASED SERVICE AGENCY MUST PROVIDE SIGN LANGUAGE INTERPRETING SERVICES

The U.S. Attorney's Office for the Eastern District of Virginia announced a [settlement agreement](#) with Goochland Powhatan Community Services, the local counties' community-based service agency, for violations of the Americans with Disabilities Act (ADA). The agreement resolves complaints of failure to provide sign language interpreting services. The agency agreed to adopt new ADA policies, which require a sign language interpreter, and provide staff training on the ADA's effective communication requirements.

MINNESOTA TO PROVIDE TRANSITIONAL HOUSING ASSISTANCE

After six years, a class of plaintiffs with disabilities who live in group homes in Minnesota obtained preliminary approval of a settlement agreement in [Murphy et al. v. Harpstead](#). The plaintiffs alleged that after asking to move into their own homes or apartments, they did not receive the needed assistance to make the move happen, in violation of *Olmstead v. L.C.*. Under the settlement, the Minnesota Department of Human Services must take steps to improve access and opportunities for individuals with disabilities who want to live in their own homes, identify people living in group homes who said they wanted more individualized housing options, give individuals information about accessible housing transition services, and track the people identified to ensure they obtained the needed support.

NORTH CAROLINA CITY ADOPTS SERVICE ANIMAL POLICIES

In response to a [settlement](#) in a lawsuit alleging a man in a store was forced to leave because of his guide dog, the city of Winston-Salem, North Carolina, is adopting a policy for police officers to be specifically trained on the rights of people who use service animals. The new policy will provide guidance to police officers who encounter service animals on the job by identifying service animals and understanding legal protections under federal and state law.

COLORADO DEPARTMENT OF CORRECTIONS MUST PROVIDE AUXILIARY AIDS AND SERVICES

Disability Law Colorado (DLC) [settled](#) with the Colorado Department of Corrections (CDOC) on a lawsuit brought on behalf of incarcerated Deaf and hard of hearing persons alleging CDOC violated the Americans with Disabilities Act (ADA) by failing to provide sign language interpreters. In the settlement CDOC must ensure qualified individuals have access to sign language interpreters for key interactions, such as intakes and orientations; medical appointments; educational, vocational, and religious programs; and preparation for parole and release. CDOC will also provide captioned telephones and videophones.

COLORADO DEPARTMENT OF CORRECTIONS MUST PROVIDE ACCESSIBLE MATERIALS TO BLIND INCARCERATED PERSONS

The Colorado Department of Corrections (CDOC) [settled](#) a lawsuit alleging they denied blind prisoners access to aids and services to participate in educational programming, work assignments, and recreation. The complaint also alleged CDOC failed to provide prisoners with effective communication of materials and information, such as handbooks, regulations, and grievance forms. The settlement requires blind incarcerated individuals have access to a laptop with screen reader software, typing tutorial programs, e-book readers, and other assistive technology.

INDIANA MUST ALLOW VOTERS WITH PRINT DISABILITIES TO CHOOSE ASSISTANT

The U.S. District Court of the Southern District of Indiana [granted](#) increased access for voters with print disabilities to select the person of their choice to assist in marking their paper absentee ballot, as long as the individual is not the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union. The preliminary injunction is effective for the November midterm elections.

2022 ADA TITLE III LAWSUITS DROPS 22 PERCENT SINCE 2021

As of the end of June 2022, the number of Title III of the Americans with Disabilities Act (ADA) lawsuits [dropped](#) twenty-two percent compared to the same timeframe for 2021. Seyfarth Shaw LLP monitors ADA lawsuits and found the number of lawsuits filed in California dropped fifty-two percent, possibly in response to lawsuits and criminal charges filed by district attorneys against "serial filers" earlier in the year, such as [Potter Handy LLP](#), which was later [dismissed](#) in August 2022, and [Kousha Berokim](#). In the first half of 2022, New York had the highest number of Title III ADA lawsuits with 1,819 filed.

UPCOMING WEBINARS & CONFERENCES

DIGITAL ACCESSIBILITY LEGAL SUMMIT

The virtual [Fourth Annual Digital Accessibility Legal Summit](#) will be taking place on November 1-2, 2022. The summit is geared towards legal practitioners and attorneys, legal resource providers, accessibility program managers, academics, and others working in the accessibility and legal fields. It will provide best practices and speakers from the accessibility and legal fields to discuss and present on digital accessibility. Attendees can register [online](#).

ACCESSIBILITY IN HISTORIC BUILDINGS AND FACILITIES WEBINAR

On November 3, 2022, the [Great Lakes ADA Center](#) is hosting a webinar about historic building and facilities access. The webinar, "[Accessing the Past: Accessibility in Historic Buildings and Facilities](#)," will provide an overview of the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) accessibility requirements for historic buildings and facilities, including technical requirements and exemptions, best design practices, and recommendations for making historic sites and facilities accessible. The webinar will be recorded for later viewing.

CIVIL RIGHTS FOR INCARCERATED PEOPLE WEBINAR

On November 16, 2022, the [Great Lakes ADA Center](#) is hosting a webinar, "[Learning from Civil Rights Lawsuits: Effective Communication with Deaf, Hard of Hearing, Blind, and Low Vision Incarcerated People](#)," to look at how federal antidiscrimination law protects individuals with communication disabilities in U.S. jails and prisons. The webinar will discuss recent litigation by Deaf and blind/low-vision people and propose comprehensive policy reform. The webinar will be recorded for later viewing.

BIPOC DISABILITY JUSTICE SUMMIT

The [BIPOC Disability Justice Summit](#) will be held on August 30th (virtually) and September 6th (in-person in Washington, DC). The two day leadership summit addresses empowering disabled leaders of color and allies to drive meaningful change.

LEARN MORE

ACCESSIBILITY OF SIDEWALK DINING, RETAIL, AND COMMUNITY SPACES

The Pacific ADA Center released an informational document, "[Accessibility of Sidewalk Dining, Retail, and Community Spaces](#)," that discusses business requirements for display tables, restaurant seating, clothing racks, protruding objects on sidewalks and streets, and other requirements. Resources and trainings can be found on their [website](#).

HOW AIRPORTS CAN BE MORE ACCESSIBLE

A Public Broadcasting Service (PBS) article discusses what some airports are doing to improve the flying experience for individuals with disabilities. The article, "[How airports can make travel more accessible for flyers with disabilities](#)," interviews disability rights advocates on what remedial steps airports are taking.

FREE CONCERT TICKETS FOR INDIVIDUALS WITH DISABILITIES

A nonprofit, [Accessible Festivals](#), launched a [new ticket program](#) to make attending some of the biggest concert events financially accessible to music lovers and festival attendees, including the Austin City Limits Music Festival, Electric Daisy Carnival, Lollapalooza, and others, through the [Dan Grover Memorial Ticket Grant Program](#). The program grants free access for individuals with disabilities who experience financial hardship and their loved ones.

DISABILITY VOTING RIGHTS WEEK CELEBRATED IN SEPTEMBER

September 12-16, 2022, was [Disability Voting Rights Week](#), formerly known as National Disability Voter Registration Week. Every year, the [REV UP Voting Campaign](#), a network of grassroots coalitions and over 200 partner organizations, works to foster civic engagement and protect the voting rights of Americans with disabilities. The [American Association of People with Disabilities](#) provides [voting outreach tools](#), toolkits, poll worker trainings, and advocacy tools.

REP. LANGEVIN DENIED FLIGHT BECAUSE OF WHEELCHAIR

Rep. Jim Langevin (D-RI) booked a flight to Italy and the government confirmed his wheelchair would be allowed on the flight. Rep. Langevin's power wheelchair uses a lithium-ion battery. Upon learning of the battery type, Lufthansa [refused to transport the wheelchair](#). In response, Rep. Langevin provided a manufacturer's letter stating the chair met safety requirements and had the wheelchair's inventor speak with a supervisor, but he was still not allowed on the flight. Lufthansa apologized for the error and said employees will be receiving a comprehensive review of lithium battery guidelines.

NEW TOOL PROVIDES EASY SEARCH FOR VOTER ACCESSIBILITY OPTIONS

The [Microsoft Accessibility and Democracy Forward teams](#) announced the [Center for Civic Design's Disability Voting Index](#), a tool that provides an easy search option for all fifty states on accessibility options. Recognizing every state has different rules and options, the tool provides a centralized site for voters with disabilities to understand and participate in the electoral process. A user can search their state, learn about voting requirements, get accessible voting tips, and obtain information about all voting options offered.

CCD SUBMITS COMMENTS IN RESPONSE TO GM AND FORD AV EXEMPTIONS

The Consortium for Constituents with Disabilities (CCD) Transportation Task Force submitted comments in response to [Ford](#) and [GM](#)'s petitions to the National Highway Traffic Safety Administration (NHTSA) for temporary exemptions from various requirements of the federal motor vehicle safety standards for automated driving system-equipped vehicles. NHTSA's notice sought public comments regarding the merits that should apply to the temporary exemptions, if granted, for [GM](#) and [Ford](#). NHTSA also requested comments on the extent that accessibility and equity be considered in determining whether an exemption is in the public interest. CCD's comments, signed by numerous disability rights organizations, suggested minimum accessibility requirements NHTSA should set as terms of the exemption and future policy.

AN ACCESSIBLE NAVAJO NATION

A study conducted by the Native American Disability Law Center across the Navajo Nation found individuals with disabilities living in the Nation face barriers that keep them from having equal rights. These challenges cause barriers in obtaining housing, entering and accessing public buildings, securing employment, and wheelchair accessible transportation. The article, "[What about us? – a call for an accessible Nation](#)," addresses the barriers and the efforts to make the Nation more accessible.

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.

[Judy Heumann](#)

[Bazon Center for Mental Health Law](#)

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

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

[Disability Rights Advocates](#)

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

[Disability Rights International](#)

[Disability Rights Education & Defense Fund](#)

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

[Disability Scoop](#)