



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 fourth 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 March 31st, 2023, to Heather Ansley, DRBA Policy Committee Chair, HeatherA@PVA.org.

FEDERAL UPDATES

RULEMAKING ON SSTMS ACCESSIBILITY REQUIREMENTS

On November 21, 2022, the public comment period ended for the U.S. Access Board’s [Advanced Notice of Proposed Rulemaking](#) (ANPRM) on self-service transaction machines (SSTMs) and self-service kiosks. The ANPRM requested comments on accessibility requirements for SSTMs, locations for accessible SSTMs, and the economic impact of accessible SSTMs. According to a report during the [January 2023 Access Board meeting](#), staff is evaluating comments and expected to move forward with a [Notice of Proposed Rulemaking](#) in November 2023.

DOJ LAUNCHES NEWLY DESIGNED ADA WEBSITE

The U.S. Department of Justice launched a new and improved version of [ADA.gov](https://www.ada.gov). The updated website is designed to more effectively provide answers for the general public on rights and requirements under the Americans with Disabilities Act, including overviews of featured topics, plain language explanations, and use of icons to provide clear examples. Feedback or thoughts on the new website can be shared on the [user feedback form](#).

GAO PUBLISHES STUDY ON ACCESSIBLE AIR TRAVEL

The U.S. Government Accountability Office (GAO) published their findings in a study of continued [barriers to accessible air travel](#). The study looks at barriers to accessible air travel, steps that airports and airlines have taken reduce barriers, and the status of actions taken by the U.S. Department of Transportation to respond to accessibility-related provisions and enforce accessibility-related regulations. GAO will continue to monitor previously recommended actions to increase transparency of enforcement and enhance civil rights in passenger screening.

SENATE COMMITTEE RELEASES REPORT ON SECTION 508 COMPLIANCE

A report by the Majority staff of the Senate Special Committee on Aging, released a report, "[Unlocking the Virtual Front Door](#)," detailing widespread failures across the federal government to ensure that federal technology is accessible, as required by Section 508 of the Rehabilitation Act. The report outlines the findings of inaccessible kiosks, websites, federal technology, and insufficient oversight and enforcement.

DOT PROMISES MEANINGFUL PUBLIC INVOLVEMENT IN DECISION-MAKING

In a [guide](#) issued by the U.S. Department of Transportation, the agency promises practices for funding recipients to meet the requirements of meaningful public involvement and participation. The guide highlights the benefits of meaningful public involvement early in the planning process to meet equitable access. Public involvement strategies include methods to ensure that people with disabilities can participate in opportunities to have a meaningful impact on decision-making, including requiring accessible outreach and materials.

BILLS DIE AT END OF CONGRESS SESSION

Shortly before the end of the 117th Congress session, multiple bills that protect disability rights were introduced. U.S. Senator Tammy Duckworth (D-IL) and U.S. Representative John Sarbanes (D-MD) introduced the [Websites and Software Applications Accessibility Act \(S. 4998/H.R. 9021\)](#), to decrease accessibility barriers in websites and software applications. U.S. Senator Cory Booker (D-NJ) re-introduced the [Protecting Family Caregivers from Discrimination \(S. 5136\)](#), which would prohibit discrimination against family caregivers by their employers. The bills died at the end of the session and may be re-introduced during the 118th Congress session.

MINNESOTA PRISONS FAIL TO PROVIDE REASONABLE ACCOMMODATIONS FOR GED PROGRAMS

After receiving complaints, the U.S. Department of Justice [found](#) the Minnesota Department of Corrections (MNDOC) violated the Americans with Disabilities Act by denying reasonable accommodations for incarcerated individuals with disabilities enrolled in its General Education Development (GED) program. The [Letter of Findings](#) demands MNDOC to promptly implement corrective measures.

DOJ NOTIFIES NYC TRANSIT AUTHORITY OF PARATRANSIT ADA VIOLATIONS

The U.S. Department of Justice investigated and issued a [Letter of Findings](#) to the New York City Transit Authority (NYCTA) that its paratransit program violates Title II of the Americans with Disabilities Act. The letter outlines that the paratransit services engage in practices that significantly limit the availability of the service by capacity restraints, including significantly untimely pickups and drop-offs, a substantial number of trip denials or missed trips, and excessively long travel times. The letter demanded NYCTA address the violations, establish performance standards for on-time drop-offs and trip lengths, and conduct an analysis of their performance.

INTERNATIONAL DAY OF PERSONS WITH DISABILITIES CELEBRATED ON DECEMBER 3RD

President Biden released a [proclamation](#) recognizing December 3rd as [International Day of Persons with Disabilities](#). In the proclamation, the President petitioned for the need for equal rights for individuals with disabilities and reaffirmed the Administration's commitment to build a world where people with disabilities are afforded the opportunities, independence, and respect they deserve.

GSA LAUNCHES ACCESS FOR ALL STUDENT DESIGN COMPETITION FOR FEDERAL WORKPLACES

The U.S. General Services Administration (GSA) and [Challenge.Gov](#) launched [Access for All](#), a student design competition to advance accessibility and equitability in federal buildings owned and operated by GSA. The competition invites students to apply universal design to reimagine federal workspaces that provide an accessible, barrier-free, and all-inclusive experience. Submissions are due by May 1, 2023.

EEOC RELEASES KNOW YOUR RIGHTS POSTER

The U.S. Equal Employment Opportunity Commission (EEOC) released the [Know Your Rights poster](#), which updates and replaces the previous EEO is the Law poster. Covered employers are required to prominently display the poster at work sites. The poster includes a QR code that directly links to instructions on how to file a workplace discrimination charge with the EEOC. The poster also shares information on discrimination based on a disability, equal pay, retaliation, and participating in a discrimination lawsuit, investigation, or proceeding.

WHITE HOUSE ISSUES BLUEPRINT FOR AI BILL OF RIGHTS

The White House released the “[Blueprint for an AI Bill of Rights](#),” recognizing how the use of technology, data, and automated systems impact the American public. Artificial intelligence (AI) algorithms in hiring and employment result in harmful bias and discrimination, including against people with disabilities. The Blueprint for an AI Bill of Rights seeks to protect people with disabilities through equity assessments, ensuring accessibility in design and development, and oversight of disparity testing.

CASES

DOJ SETTLES WITH FLORIDA SCHOOL DISTRICT FOR DISCRIMINATION AGAINST STUDENTS WITH DISABILITIES

The U.S. Department of Justice (DOJ) [settled](#) with the Okaloosa County School District in Florida after investigations of physical and verbal abuse and discriminatory use of seclusion and restraint of students with disabilities. DOJ found the school district violated Title II of the Americans with Disabilities Act (ADA) in student punishment. Under the settlement, the school district must prohibit the use of seclusion, limit the use of restraints, designate staff to oversee appropriate behavior intervention plans, and designate an administrator to oversee the district’s compliance with the agreement and Title II of the ADA.

PHILADELPHIA AGREES TO IMPROVE SIDEWALKS AND CURB RAMPS

After a lawsuit was filed in 2019, [Liberty Resources, Inc., et al. v. City of Philadelphia](#), in October 2022, Philadelphia agreed to a fifteen-year [settlement](#) to construct and fix curb ramps in the city. The plaintiffs alleged that the city’s curb ramps and other walkways had physical barriers and were inadequately constructed or maintained, in violation of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. Under the settlement, over the next fifteen years, the city must take steps to repair existing curb ramps, install new accessible curb ramps, and maintain accessible curb ramps.

COUNTY AGREES TO PROVIDE REASONABLE ACCOMMODATIONS FOR PUBLIC BENEFITS

Disability rights advocates [settled](#) a class action with the Suffolk County Department of Social Services (SCDSS) to provide reasonable modifications in public benefits applications administered by SCDSS. Under the settlement agreement, SCDSS must provide a comprehensive notice of rights available under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, update the county’s ADA policy to highlight the obligation to conduct an interactive and timely individual assessment for reasonable accommodations, update the computer system for workers to see prior accommodation requests, and update staff training.

UC BERKLEY AGREES TO PROVIDE ACCESSIBLE ONLINE CONTENT

The U.S. Department of Justice (DOJ) and the Regents of the University of California, on behalf of the University of California Berkeley (UC Berkeley), filed a proposed [consent decree](#) after [allegations of inaccessible content](#). DOJ found that much of UC Berkeley’s free online content was inaccessible for individuals with hearing, vision, and manual disabilities. UC Berkeley agreed to make a vast majority of its existing content and all future content accessible for its university events, online platforms, and online courses.

NYC STUDENTS WITH DIABETES GRANTED EQUAL SCHOOL ACCESS

The U.S. District Court for the Eastern District of New York granted preliminary approval to a [settlement agreement](#) that will ensure students with diabetes in New York City will receive care to fully participate in school and school-related activities. The class action lawsuit arose from a claim that the city and related entities failed to ensure that students with diabetes could safely attend school and have equal access to educational opportunities. Under the settlement agreement, the city will provide Section 504 plans to determine the needs of the student, provide necessary care, and train staff on the provision of the services.

TEXAS CITY AGREES TO ENSURE ACCESSIBLE WAVS UNDER CITY PROGRAM

In a [settlement agreement](#), the City of Kyle, Texas, agreed to increase the availability of wheelchair-accessible vehicles (WAVs). The city offers a reduced fare transportation program for individuals with disabilities, who request UberWAVs. However, an investigation by the U.S. Attorney's Office for the Western District of Texas found UberWAVs were not available more than 40% of the time and even when they were available, the average wait time was substantially longer than an UberX. The settlement requires the city to maintain a contract to increase the availability of WAVs, track response times, and advertise the improvements.

COURT FINDS VIRGINIA SCHOOLS' BAN ON MASKS VIOLATES DISABILITY RIGHTS

In *Seaman et al. vs. Commonwealth of Virginia et al.*, Virginia reached a [settlement agreement](#) that peer masking in the commonwealth's public school is a reasonable accommodation for students with disabilities put at severe risk if they contract COVID-19. The [lawsuit alleged](#) that the Virginia's Executive Order 2, a blanket ban on school districts to require universal mask use, violates the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The settlement also requires the Virginia Department of Education to send the guidance to school districts and post guidance on their webpage.

JURY RETURNS VERDICT IN FAVOR OF FORMER EMPLOYEE REGARDED AS HAVING A DISABILITY

After a lawsuit brought by the U.S. Equal Employment Opportunity Commission against West Meade Place, a privately owned Nashville rehabilitation and health care facility, a jury returned a [verdict](#) in favor of a former employee. The lawsuit alleged West Meade fired the plaintiff because it regarded her as having a physical and mental impairment, in violation of the Americans with Disabilities Act. A jury returned a verdict in favor of the plaintiff and required the company to pay the former employee back pay and compensatory damages.

MCDONALD'S LP SETTLES IN AUTISM DISCRIMINATION CASE

JDKD Enterprises, LP, which owns and operates numerous McDonald's franchises, will pay monetary damages in a [disability discrimination settlement](#) filed by the U.S. Equal Employment Opportunity Commission (EEOC). The [lawsuit](#) alleged JDKD fired an employee who worked at several McDonald's restaurants for 37 years because of his autism, in violation of the Americans with Disabilities Act. The former employee will receive \$100,000 and JDKD agreed to prevent further disability discrimination with periodic reporting to the EEOC and reasonable accommodation request trainings for all management personnel.

ALABAMA MEDICAID RECIPIENTS WILL RECEIVE EQUAL ACCESS TO HEPATITIS C MEDICATION

The U.S. Department of Justice reached a [settlement](#) with Alabama's Medicaid Agency to remove a policy denying medication to recipients with Hepatitis C who consumed alcohol or illicit drugs within six months prior to starting treatment or while under treatment. The state's restriction to withhold a potentially life-saving treatment to individuals who had, were regarded as having, or had a record of a substance use disorder was found to be in violation of the Americans with Disabilities Act.

FIRST CIRCUIT HOLDS PLAINTIFF HAS STANDING FOR VIOLATIONS OF HOTEL RESERVATION RULES

Overruling the district court's decision, in *Laufer v. Acheson Hotels, LLC*, the U.S. Court of Appeals for the First Circuit [held](#) the plaintiff had standing to sue the hotel based on the lack of information on room accessibility on the hotel's reservations website, in violation of the Americans with Disabilities Act's reservation rules. The [U.S. District Court of Maine](#) had dismissed the case for lack of standing. The First Circuit held the plaintiff had standing based on the plaintiff's concrete plans to use the website in the near future, making the injury sufficiently imminent. A petition for a [writ of certiorari](#) was filed to the U.S. Supreme Court.

EEOC CERTIFIES CLASS OF DEAF CIVILIAN AIR FORCE EMPLOYEES AND APPLICANTS

In 2020, Disability Rights Advocates filed a [lawsuit](#) on behalf of a group of Deaf civilian employees, former employees, and applicants against the U.S. Air Force with the U.S. Equal Employment Opportunity Commission (EEOC), alleging a consistent failure to provide accommodations. On October 13, 2022, an EEOC administrative judge [certified](#) a nationwide class for all Deaf civilians currently employed by the Air Force and those who applied or were employed at any time from January 1, 2018 to present. The judge highlighted significant evidence of discrimination and failure to provide reasonable accommodations.

DRNY FILES LAWSUIT AGAINST NYC FOR FAILING TO MAINTAIN ACCESSIBLE SIDEWALKS

Disability Rights New York filed a lawsuit against New York City, along with corresponding agencies and officials, on behalf of Bronx residents and visitors with vision and mobility disabilities. The [complaint](#) alleges the defendants failed to maintain accessible pedestrian pathways in violation of Title II of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and the New York City Human Rights Law. In October 2022, the Department of Justice filed a [Statement of Interest](#) arguing pedestrian pathways are both facilities and services, programs, and activities covered under the ADA, and the city must make these accessible and usable by people with disabilities. On October 6, 2022, DRNY filed an [opposition](#) to the city's Motion to Dismiss. The case remains pending.

CLASS CERTIFICATION GRANTED IN GEORGIA COMMUNITY SUPERVISION CASE

[Disability rights organizations](#) filed a [lawsuit](#) challenging the Georgia Department of Community Supervision's failure to provide American Sign Language interpreters, auxiliary aids and services, and reasonable modifications to Deaf and hard of hearing people on parole or probation, in violation of the Americans with Disabilities Act, the Rehabilitation Act, and the U.S. Constitution. On October 13, 2022, a judge for the U.S. District Court for the Northern District of Georgia Atlanta Division [denied](#) the defendant's Motion for Summary Judgment and granted the plaintiff's Motion for Class Certification.

ADVOCACY IN ACTION

REV UP CAMPAIGN ISSUES ACCESSIBLE VOTING RESOURCES

Ahead of the midterm elections, the Americans Association of People with Disabilities [REV Up Campaign](#) developed voting guides, accessibility tips, and voting outreach toolkits for each state and the District of Columbia. The resources seek to empower the more than 38 million people with disabilities eligible to vote.

DISABILITY RIGHTS ORGS SEND LETTER TO CA CALLING FOR AN ACCESSIBLE ABORTION PORTAL

A coalition of disability rights organizations sent a [letter](#) to the California Governor and Secretary of the Health and Human Services Agency demanding the state make its abortion portal accessible and relevant to the disability community. The portal currently has accessibility barriers and fails to include relevant information for individuals with disabilities who need to access the information or services. The letter requested officials take steps to respond to the access gaps and periodically meet with the disability community.

ADVOCATES ISSUE STATEMENT OPPOSING NYC'S INVOLUNTARY HOSPITALIZATIONS

Disability rights advocates issued a [statement](#) opposing the New York City Mayor's plan to increase involuntary hospitalizations for residents living with disabilities. The Mayor announced a [directive](#) to city police officers, EMTs, and outreach workers to involuntarily transport individuals to psychiatric hospitals when it appeared they could not meet their basic needs. The statement raised a number of concerns, including the lack of evidence that involuntary treatment is more effective than voluntary services, and called on the Mayor to develop a comprehensive plan to provide housing and voluntary services for homeless residents with disabilities.

DISABILITY RIGHTS ORGS FILE AMICUS BRIEF IN ASSISTED SUICIDE LAWSUIT

On October 24, 2022, disability rights organizations filed an [amicus curiae brief](#) in the case *Shavelson v. Bonta*, arguing changes to California's End of Life Option Act (EOLA) are discriminatory against people with disabilities and violate the Americans with Disabilities Act, and supported the defendant's Motion to Dismiss. EOLA gives some terminally ill Californians the ability to end their lives with aid-in-dying medication. On December 7, 2022, the U.S. District Judge for the Northern District of California approved the defendant's [Motion to Dismiss](#) arguing the changes fundamentally alter EOLA and individuals with disabilities would be subject to more pressure from third parties.

CCD EXPRESSES CONCERNS WITH AMTRAK'S ENGAGEMENT WITH THE DISABILITY COMMUNITY

On October 6, 2022, the Consortium for Constituents with Disabilities (CCD) Transportation Task Force co-chairs wrote a [letter](#) to Stephen Gardner, CEO of Amtrak, regarding frustrations with a meeting with disability rights advocates and the Amtrak Board of Directors in July 2022. CCD Transportation Task Force co-chairs requested a new meeting with the Board to discuss accessibility concerns with the new trainsets. In December 2022, Amtrak [responded](#) that they are developing plans to further support and engage the disability community.

DISABILITY RIGHTS ORGS FILE AMICUS BRIEF IN SUPREME COURT CASE

Disability rights organizations filed an [amicus brief](#) in the U.S. Supreme Court to protect students with disabilities and their families. The case, *Perez v. Sturgis Public Schools*, looks at whether the Individuals with Disabilities Education Act and the Americans with Disabilities Act require a student to exhaust their administrative proceedings against the school district even when such proceedings would be futile. The Court heard [oral arguments](#) on January 18, 2023.

UPCOMING WEBINARS & CONFERENCES

MAY NATIONAL ADA SYMPOSIUM

The [National ADA Symposium](#) will be held in Kansas City, Missouri from May 21-24, 2023. The Symposium is hosted by the [ADA National Network](#). More information will be provided in the upcoming months.

ADA TALK SERIES

On the fourth Thursday of every month, from January to October 2023, the ADA National Network hosts a free [ADA Talk Series](#). Topics include, employment, program access under Title II of the Americans with Disabilities Act (ADA), higher education, digital access, and ADA in the courtroom.

MIDWEST ASSISTIVE TECHNOLOGY APRIL POWER UP AT CONFERENCE

On April 3 & 4, 2023, the Midwest Assistive Technology Community will host the [Power Up AT Conference](#) in Columbia, Missouri. Early discounted registration is available until February 15, 2023.

ACB'S 2023 LEADERSHIP CONFERENCE

From March 4-7, 2023, the American Council of the Blind will host the [Leadership Conference](#) virtually. An in-person component will take place from March 9-12, 2023, in Alexandria, Virginia.

ACCESSIBILITY WEBINARS AND ADA CHATS

The [Great Lakes ADA Center](#) offers free [webinars and chats](#) on various accessibility topics. Upcoming topics include accessible retail spaces and restaurants (February 2, 2023), inclusive wellness and recreation programs (February 9, 2023), and best practices to create an equitable work environment in a state government (February 21, 2023).

DIGITAL ACCESSIBILITY WEBINARS

[Accessibility.com](#) offers webinars on digital accessibility. Upcoming webinars include accessible design, deploying accessible websites, accessible mobile apps & kiosks, and creating a sustainable digital accessibility business plan.

RESOURCES

JAN PUBLISHES GUIDE FOR HIRING PROCESS ACCOMMODATIONS

In November 2022, the Job Accommodation Network (JAN) published the [Employers' Practical Guide: Reasonable Accommodation During the Hiring Process](#), which provides ideas and resources for providing accommodations during the hiring process. The guide outlines the interactive process, for employers and individuals to arrive at accommodations. JAN also has a [Workplace Accommodation Toolkit](#), to help employers to move beyond basic disability law compliance.

NADTC LEARNING CENTER EDUCATIONAL VIDEOS

The [National Aging and Disability Transportation Center's](#) (NADTC) [Learning Center](#) includes a collection of educational short videos based on NADTC's technical assistance requests. Videos include effective and interactive communication, developing and maintaining partnerships for sustainability, and writing effective survey questions.

RESOURCES FOR ACCESSIBLE VEHICLES AND MODIFICATIONS

The Great Plains ADA Center posted [resources](#) for accessible vehicles and modifications. The webpage lists organizations and companies that provide financial assistance for modified vehicles, accessible rental vehicles, dealers of accessible vehicles, and finance options for accessible vehicles.

BEST PRACTICES FOR LIBRARY ACCESSIBILITY

The American Library Association, in collaboration Knology, published best practices for library accessibility. The report, "[Accessibility in Libraries: A Landscape Report](#)," reviews historical accessibility of U.S. libraries, the current landscape of library accessibility, and resources to include people with different kinds of disabilities into library programs and services.

LEARN MORE

MAKING YOUR DIGITAL BRAND MORE ACCESSIBLE

Spiceworks published "[5 Steps to Make Your Digital Brand More Accessible](#)." Recognizing brands often overlook the importance of digital accessibility, the article explains what accessibility looks like and strategies to achieve it.

DISABILITY COMMUNITY MOURNS LOSS OF LOIS CURTIS

Disability advocate, [Lois Curtis](#), is remembered after her passing in November 2022. Curtis, recognized as “L.C.” in [Olmstead v. L.C.](#), achieved justice for individuals with disabilities. In June 1999, the U.S. Supreme Court ruled in *Olmstead*, that unjustified segregation of people with disabilities constitutes discrimination in violation of Title II of the Americans with Disabilities Act. The case is widely cited by disability advocates to ensure public entities provide community-based services. Curtis was lauded as changing history by establishing precedent and as a hero who profoundly shaped the disability rights movement.

RESEARCHERS FIND PHYSICIAN BIAS PERPETUATES BARRIERS TO ACCESSING HEALTH CARE

A research article, “[I Am Not the Doctor For You](#),” published in Health Affairs, outlined the barriers people with disabilities face in accessing health care. After three physician focus groups, researchers identified physical, communication, knowledge, structural, and attitudinal barriers to care. The findings suggest that physicians’ bias and general reluctance to care for people with disabilities play a role in perpetuating the health care disparities. Another article, “[For Many Disabled Patients, the Doctor Is Often Not In](#),” reviews the lack of necessary accessible medical equipment and avoidance by physicians as additional barriers.

BRAUNABILITY PUBLISHES DISABILITY EMPLOYMENT REPORT CARD

BraunAbility, a manufacturer of wheelchair-accessible vehicles and lifts, published the [2022 Drive for Inclusion Report Card](#), which focuses on disability employment. The report card looks at workplace challenges in the public’s eyes against those who have physical disabilities. BraunAbility’s [Drive for Inclusion](#) is a global movement for accessibility and independence for those living with mobility disabilities and their caregivers. [The Driving Force](#) is an online community to unite all voices from the mobility disability space.

SUBMINIMUM WAGES CONTINUE AT MISSOURI’S SHELTERED WORKSHOPS

In 1938, Congress included a clause in the Fair Labor Standards Act to authorize subminimum wages for individuals with disabilities. Sheltered workshops were meant to be a temporary measure, as a training process; however, an investigation showed that 5,000 Missouri employees have been there for years. [ProPublica](#) interviewed employees to illustrate the injustices occurring at these workshops.

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](#)

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

[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](#)

[Disability Scoop](#)