



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 seventh 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, 2023, to Heather Ansley, DRBA Policy Committee Chair, HeatherA@PVA.org.

FEDERAL UPDATES

HHS ISSUES NPRM TO UPDATE SECTION 504

The U.S. Department of Health and Human Services (HHS) [issued a notice of proposed rulemaking](#) (NPRM) to update, clarify, and strengthen Section 504 of the Rehabilitation Act. The NPRM addressed numerous topics including, but not limited to, child welfare; the use of value assessments; web, mobile, and kiosk accessibility; and accessible medical equipment. The proposed rule also sought to align Section 504 with the Americans with Disabilities Act and significant court cases. The comment period closed on November 13, 2023.

DOJ PUBLISHES NPRM FOR TITLE II WEB & APP ACCESSIBILITY STANDARDS

The U.S. Department of Justice (DOJ) issued a [notice of proposed rulemaking](#) (NPRM) to address accessibility requirements for websites and mobile apps under Title II of the Americans with Disabilities Act. The NPRM outlined specific technical accessibility standards for services, programs, and activities offered by state and local government entities to the public through websites and mobile apps, but proposed six broad exemptions. More than 260 disability rights organizations submitted a joint [comment](#) applauding DOJ for addressing website and mobile app accessibility barriers, but rebutted the proposed exemptions. The comment period closed on October 3, 2023.

NIH RECOGNIZES PEOPLE WITH DISABILITIES AS A HEALTH DISPARITY POPULATION

On September 26, 2023, the National Institutes of Health [designated](#) people with disabilities as a health disparity population. A health disparity designation helps encourage research specific to the health issues and unmet health needs of people with disabilities.

DOT REACHES AGREEMENT WITH UNITED AIRLINES AFTER DEATH OF ENGRACIA FIGUEROA

The U.S. Department of Transportation reached a [settlement agreement](#) with United Airlines after the death of disability advocate, Engracia Figueroa. After United damaged her custom wheelchair, Figueroa was given a loaner wheelchair, which led to fatal medical complications. Under the agreement, United must roll out a flight filter on its booking engine for passengers to find flights where their wheelchairs can fit and safely be transported; refund the fare difference if the flight needed is more expensive than their preferred flight; and seek feedback from each passenger who checks a wheelchair for transport in the aircraft cargo compartment.

DOT LAUNCHES PUBLIC AWARENESS CAMPAIGN ON AIRLINE PASSENGERS WITH DISABILITIES BILL OF RIGHTS

The U.S. Department of Transportation launched a public awareness campaign with a short, informative [video](#) to educate air travelers with disabilities on their rights under the [Air Carrier Access Act](#). Advocates are encouraged to share the video on social media platforms with #AccessibleAirTravel.

ADVOCATES CELEBRATE THE 50TH ANNIVERSARY OF THE REHAB ACT

September 26, 2023 marked the 50th anniversary of the [Rehabilitation Act of 1973](#). For the anniversary, the U.S. Senate Special Committee on Aging hosted an [event](#). On October 2, 2023, the White House hosted an [event](#) with advocate [Selma Blair](#). President Biden [praised](#) the work of advocates, but acknowledged advocacy cannot stop to ensure people with disabilities have equal access to daily life, including employment, voting, public spaces, and healthcare.

LEGISLATION

LEGISLATORS REINTRODUCE BICAMERAL, BIPARTISAN LEGISLATION FOR WEB & APP ACCESSIBILITY

On September 28, 2023, legislators reintroduced the [Websites and Software Applications Accessibility Act \(H.R. 5813/S. 2984\)](#) to establish uniform accessibility standards for websites and software applications. The Act reaffirms that websites and apps are covered under the Americans with Disabilities Act and requires the U.S. Department of Justice and the U.S. Equal Employment Opportunity Commission to set, enforce, and periodically update accessibility standards.

SENATORS INTRODUCE BIPARTISAN, BICAMERAL BILL TO INCREASE SSI ASSET CAPS

The introduced bipartisan, bicameral [SSI Savings Penalty Elimination Act \(H.R. 5408/S. 2767\)](#) amends Title XVI of the Social Security Act to update the asset limit for supplemental security income eligibility. Currently, the asset limits are \$2,000 for a single individual and \$3,000 for married couples, which were set in 1984. The Act would raise the caps to \$10,000 for a single individual and \$20,000 for a married couple.

CONGRESS SEEKS TO IMPROVE ACCESSIBILITY ON FEDERAL LANDS

House Representatives introduced a bill to promote accessibility on federal lands. The bipartisan [Promoting Accessibility on Federal Lands Act \(H.R. 5665\)](#) requires a comprehensive assessment of certain federal trails, campsites, boat docks, and outdoor recreation facilities to determine accessibility options for people with disabilities.

CASES

SCOTUS HEARS ORAL ARGUMENTS ON ADA HOTEL WEBSITE TESTER CASE

On October 4, 2023, the U.S. Supreme Court heard oral arguments on [Acheson Hotels, LLC v. Laufer](#). Deborah Laufer, a self-deemed “tester,” regularly visits hotel websites to check whether they comply with the Americans with Disabilities Act (ADA) [reservation rule](#). The question before the Court was whether ADA testers have standing. A group of advocates filed an [amicus brief](#) supporting an individual’s right to sue under the ADA. Due to case developments, the question of mootness was raised and presented before the Court. The decision may turn on whether the case is moot and/or whether ADA testers have standing.

DOJ SETTLES ADA CASE FOR FAILURE TO PROVIDE SIGN LANGUAGE INTERPRETATION SERVICES IN SKILLED NURSING FACILITIES

The U.S. Attorney’s Office of the Eastern District of Virginia [announced](#) a settlement agreement with the Consulate Management Company, III, LLC (CMC), which manages 48 skilled nursing facilities. The complaint alleged a nursing facility denied admission to a deaf individual because she would need sign language interpreting services. CMC agreed to pay monetary damages and a civil penalty and make significant changes to its policies and procedures at all 48 nursing facilities it manages.

JUSTICE DEPARTMENT SUES COLORADO FOR ADA VIOLATIONS IN NURSING FACILITIES

The U.S. Department of Justice [sued](#) the state of Colorado for unnecessarily segregating adults with physical disabilities in nursing facilities. A [March 2022](#) letter of findings outlined violations under the Americans with Disabilities Act (ADA) and recommended reasonable modifications to the state's long-term care system. The [complaint](#) alleged Colorado violates the ADA by discriminating against people with physical disabilities through unnecessary segregation and failing to provide services in the most integrated setting.

ADVOCATES REACH AGREEMENT WITH PRINCETON REVIEW TO INCREASE ACCESSIBILITY

Disabilities rights organizations reached a [settlement](#) with Princeton Review, a test preparation provider, over its failure to provide students with sensory disabilities full and equal access to its courses and programs. As part of the [settlement](#), Princeton Review must provide captioning and sign language interpretation services for its materials and include a page on its website notifying students of the accessibility features available.

YALE AGREES TO MODIFY POLICIES FOR STUDENTS WITH MENTAL HEALTH DISABILITIES

In November 2022, a proposed class action lawsuit was [filed](#) against Yale University alleging the university systematically discriminated against students with mental health disabilities. The complaint alleged Yale failed to make reasonable modifications to its policies, including discriminatory withdrawal policies and practices and imposing rigid requirements to secure accommodations. Under the August 2023 [settlement agreement](#), Yale agreed to modify its policies, to include offering part-time study programs, improve its medical leave procedures, and reduce reinstatement requirements.

LAWSUIT FILED AGAINST NY HOSPITAL FOR DISCRIMINATING AGAINST A PATIENT WITH A SUD

A lawsuit was [filed](#) against the Good Samaritan Hospital in Rockland County, New York, alleging it discriminated against an individual with a substance use disorder (SUD). The lawsuit alleges the hospital denied the patient medication for his SUD and at-home treatment.

COURT FINDS QUEST'S INACCESSIBLE KIOSKS VIOLATE THE ADA

On October 25, 2023, the U.S. District Court for the Central District of California [ruled](#) in favor of the plaintiff finding Quest Diagnostics Clinical Laboratories violated the Americans with Disabilities Act (ADA) by requiring patients to use a touchscreen kiosk that was inaccessible for blind and visually impaired individuals. In 2021, the U.S. Department of Justice filed a [Statement of Interest](#) clarifying the ADA's requirements. The court found Quest violated the ADA and ordered Quest to ensure accessibility features were added to the kiosks and staff were sufficiently trained on the accessibility features.

LEARN MORE

SENATE CONFIRMS KARLA GILBRIDE FOR LONG-VACANT EEOC TOP LAWYER ROLE

After her nomination in January, Karla Gilbride was [sworn in](#) as General Counsel of the U.S. Equal Employment Opportunity Commission in October 2023. Gilbride served as the co-director of the Access to Justice Project and won a [forced arbitration case](#) as the counsel of record before the U.S. Supreme Court.

988 ADDS ASL

The U.S. Department of Health and Human Services (HHS) [announced](#) the addition of American Sign Language (ASL) to the [988 Suicide & Crisis Lifeline](#). 988 is a confidential support for people in distress and provides crisis resources. Callers who need ASL can click on the "ASL Now" button on the [988 website](#) or call 1-800-273-TALK (8255) from their videophone. Further accessibility features are expected to be added.

ACCESS BOARD OFFERS PROWAG RESOURCES

Following the publication of the [public rights-of-way final rule](#) on August 8, 2023, the U.S. Access Board released training videos and resources. The resources include a series of [training videos](#) and a [summary](#) of notable changes.

ACCESS BOARD PUBLISHES TECHNICAL ASSISTANCE ON AT-HOME COVID TEST

The U.S. Access Board issued a technical assistance document, [Best Practices for the Design of Accessible COVID-19 Home Tests](#). The document covers topics such as [design considerations](#), [engaging end user advocacy groups](#), and [assessing usability](#).

REEVE FOUNDATION LAUNCHES ACCESSIBLE OUTDOOR CAMPAIGN

The Christopher & Dana Reeve Foundation launched the [Outdoor for Everyone Campaign](#) as an initiative to address accessibility and inclusivity including for people living with paralysis, their families, and caregivers. As part of the initiative, the Reeve Foundation created an [Accessible Outdoor Checklist](#) for parks and recreation centers.

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.

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

[Disability Rights Advocates](#)

[Disability Scoop](#)

[Disability Rights International](#)

[Disability Rights Education & Defense Fund](#)

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

[Bazelon Center for Mental Health Law](#)

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

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