

**From:** Westfall, Elizabeth (CRT)  
**Sent:** Tue, 15 Nov 2022 18:56:05 +0000  
**To:** CRT DRS Section  
**Subject:** DAAG Weekly November 15, 2022  
**Attachments:** DAAG November 15 2022 to OAAG.docx

## DISABILITY RIGHTS SECTION WEEKLY REPORT

November 15, 2022

**FROM:** Rebecca Bond  
Chief, Disability Rights Section

**SUBJECT:** Disability Rights Section Report for the Week Ending November 21, 2022

### **Significant Activities Last Week, This Week, Next Week, & 30-Day Look Ahead**

#### **LAST WEEK'S EVENTS (November 8 through November 14, 2022)**

##### **Speaking Engagement**

On November 8, 2022, representatives from the Disability Rights Section's management team Rebecca Bond, Christina Galindo-Walsh, Roberta Kirkendall, Jennifer McDannell, Elizabeth McDonald, and Elizabeth Westfall—presented at the ADA National Network Project Director's Meeting in Arlington, Virginia, about the Section's work.

##### **Enforcement**

*Iowa City Community School District* (S.D. Iowa), DJ No. 204-28-92 (Anne Raish, (b) (6))  
The Disability Rights Section requested authorization for an extension of a Title II settlement agreement between the United States and the Iowa City Community School District (ICCSA). The extension is sought to address supply chain demands that are delaying the timeline for remediation of physical access violations at two playgrounds covered by the settlement agreement. The Disability Rights Section entered into the settlement agreement with ICCSD, which requires remediation of physical access violations at twelve playgrounds, on June 2, 2020. The agreement is currently set to expire on June 2, 2023.

##### **Regulations, Interpretation, and Coordination**

*Board Meeting of the U.S. Access Board* (Christina Galindo-Walsh, (b) (6)) The U.S. Access Board held three days of Board meetings last week from November 7- 9, 2022. The three days primarily consisted of closed committee meetings, one of which was used to brief Board members on changes made to the regulatory text for its Public Rights-of-Way Accessibility Guidelines (PROWAG). At the formal Board meeting on November 9, there were two votes held. The first vote approved the July 13, 2022 meeting minutes, and the second vote revised the Board's bylaws. The next Board meeting is scheduled for January 9-11, 2023.

## **Other**

Disability Rights Section staff and U.S. Attorney's Offices conducted ADA monitoring on Election Day in the following jurisdictions: Centre County, PA; Harris County, TX; Newton County, AR; Cole County, MO; Lexington County, SC; Los Angeles County, CA; Spartanburg County, SC.

## **THIS WEEK'S EVENTS (November 15 through November 21, 2022)**

### **Speaking Engagements**

No items to report.

### **Enforcement**

*West Memphis School District* (E.D. Ark.) (DJ 205-9-9) (Anne Raish, (b) (6)) The Disability Rights Section anticipates that it will request authorization to file a lawsuit under Title I of the Americans with Disabilities Act against West Memphis School District (WMSD). The Section opened this investigation following referral of an EEOC complaint that alleged WMSD engaged in discriminatory employment practices in violation of the ADA when it failed to provide a science curriculum specialist with asthma complicated by obesity with a reasonable accommodation of remote work during the height of the COVID-19 pandemic, failed to engage in an interactive process, and constructively discharged her. If this suit is authorized, the Section will initiate pre-suit negotiations with WMSD.

*United States v. Florida* (S.D. Fla., No. 12-cv-60460) (DJ 204-18-212) (Elizabeth McDonald, (b) (6)) On November 15, 2022, the United States will appear at a virtual hearing before the magistrate judge on its motion for protective order to narrow the scope of the noticed Rule 30(b)(6) deposition of the United States and in opposition to the State's second motion to compel better interrogatory answers. The parties have agreed to postpone the 30(b)(6) deposition of the United States until the court's ruling. In this lawsuit, the United States alleges that Florida unnecessarily segregates children with complex medical needs in nursing facilities, and places other children at risk of such segregation, in violation of Title II of the Americans with Disabilities Act.

*Nebraska* (D. Neb.) (DJ 204-45-99) (Elizabeth Westfall, (b) (6)) From November 14-18, 2022, Disability Rights Section staff will conduct a site visit to further an investigation of Nebraska's employment and day services for individuals with serious mental illness under Title II of the Americans with Disabilities Act. Section staff traveled with an expert to interview individuals living in the State psychiatric hospital to assess whether those individuals are being unnecessarily segregated in the institution in violation of Title II.

*University of California at Berkeley* (N.D. Cal.) (DJ 204-11-309) (Amanda Maisels, (b) (6)) The Disability Rights Section anticipates executing a consent decree in mid-November, and filing a complaint and consent decree on November 21, 2022. The parties reached a settlement in principle on October 3, 2022, but the Board of Regents of the University of

California will not be able to vote on the agreement until mid-November. On May 9, 2022, the Disability Rights Section obtained authorization from the OAG to file a lawsuit against the University of California at Berkeley (UC Berkeley) alleging that the university violates Title II of the Americans with Disabilities Act by providing public online content, such as courses, lectures, and conferences, that is inaccessible to individuals with disabilities, including those who have vision, hearing, and certain mobility disabilities. On May 24, 2022, the Section sent a letter notifying UC Berkeley, and the parties held multiple settlement negotiations. Under the terms of the proposed consent decree, which must be approved by the Court, UC Berkeley will make all future and the vast majority of its existing online content accessible to people with disabilities.

### **Regulations, Interpretation, and Coordination**

*Launch of new ADA.gov* (Christina Galindo-Walsh, (b) (6)): The launch of the new version of the Americans with Disabilities Act (ADA) website, [www.ada.gov](http://www.ada.gov), is planned for the evening of November 17, 2022. The redesigned website, which is fully compatible with mobile devices, is written in plain language so that information is easy to understand. The website includes improved navigation tools that will help users to find the information they seek more quickly. The website also provides overviews of featured topics. These overviews are designed to answer 80 percent of common questions about each topic by giving high-level, plain-language summaries of information about the ADA that the department has previously made available in other ways. The legacy ADA.gov will be available at [archive.ADA.gov](http://archive.ADA.gov); archiving the legacy site simply means that the site will no longer be updated.

### **NEXT WEEK'S EVENTS (November 22 through November 28, 2022)**

#### **Speaking Engagements**

No items to report.

#### **Enforcement**

*Alabama Hepatitis C* (M.D. Ala.) (DJ 204-2-64) (Jennifer McDannell, (b) (6)) The Disability Rights Section anticipates entering into a settlement with Alabama. The Section opened this investigation in response to a complaint alleging that the Alabama Medicaid Agency violates Title II of the Americans with Disabilities Act by refusing medications to people with Hepatitis C (HCV) unless they meet non-medically indicated sobriety restrictions. The Section's proposed settlement agreement would require that Alabama eliminate all sobriety restrictions for HCV treatment and provide ongoing notice of the change to all Medicaid providers and Medicaid recipients.

## **Regulations, Interpretation, and Coordination**

No items to report.

### **30-DAY LOOK AHEAD**

## **Speaking Engagements**

No items to report.

## **Enforcement**

*Los Angeles County Registrar-Recorder's Office* (C.D. Cal.) (DJ 204-12C-476) (AUSA Richard Park, (b) (6) Robbie Kirkendall, (b) (6)) The U.S. Attorney's Office for the Central District of California, through the Disability Rights Section's U.S. Attorney Program, anticipates seeking authorization to propose a consent decree in this voting-related matter for alleged violations of Title II of the Americans with Disabilities Act by the Los Angeles County Registrar-Recorder's Office. On February 11, 2022 the USAO received authorization from the OAG to issue a letter of findings. The USAO investigated LA County for failures to ensure accessible voting centers for qualified voters with disabilities. During the March 3, 2020 Primary Election, the USAO and DRS conducted site visits of 106 voting centers. Based on these site visits and other information, it was found that all 106 voting centers were not physically accessible to persons with disabilities. USAO and DRS staff monitored additional vote centers during the November 8, 2022 election.

*United States v. Barnet Dulaney Perkins Eye Center*, No. 21-cv-2172 (D. Ariz.) (DJ 202-8-348) (Kevin Kijewski, (b) (6)) The Disability Rights Section anticipates that it will request authorization to enter into a consent decree to resolve this pattern or practice lawsuit filed under Title III of the Americans with Disabilities Act, alleging that Barnet Dulaney Perkins and American Vision Partners discriminate against individuals who, because of disability, need assistance transferring to and from wheelchairs for surgery.

## **Regulations, Interpretation, and Coordination**

*Employment Services Technical Assistance* (Elizabeth Westfall, (b) (6)) The Disability Rights Section anticipates issuing a technical assistance document, "Questions and Answers on the Application of the ADA's Integration Mandate and *Olmstead v. L.C.* to Public Employment and Day Services for People with Disabilities." The proposed publication provides technical assistance on how the integration mandate applies to sheltered workshops and facility-based day programs. In 2017, the Department withdrew a 2016 guidance on this topic to allow for further stakeholder discussion in light of public comments. The Disability Rights Section anticipates issuing a Federal Register notice addressing the changes to the guidance.

*Access Board Public Rights-of-Way Accessibility Guidelines (PROWAG)* (Christina Galindo-Walsh, (b) (6)) The Regulations, Interpretation and Coordination (RIC) unit of the Disability Rights Section has been carefully reviewing the Access Board's most recent draft of their

PROWAG regulatory text. The RIC unit recently coordinated joint staff-level comments with the Federal Highway Administration, which were shared with the Access Board last week. The Access Board is continuing work on its preamble and Regulatory Impact Analysis (RIA) and it plans to circulate its entire regulatory package—the regulatory text, the preamble, and the RIA—to the Board in late November. The RIC unit will review the preamble and RIA once those additional parts of the rulemaking package are made available. Prior to the vote by the entire Board, the Access Board plans to convene its Special Committee on PROWAG (to which the AAG was appointed) to decide whether to recommend approval of the PROWAG rule by the full Board. DRS will brief the OAAG on any outstanding concerns with the Access Board's PROWAG rule prior to the Special Committee's vote and vote of the full Board

Elizabeth S. Westfall  
Deputy Chief  
Disability Rights Section, Civil Rights Division  
U.S. Department of Justice  
150 M Street, NE / 9.216  
Washington, DC 20002  
(b) (6) (cell)

**From:** Westfall, Elizabeth (CRT)  
**Sent:** Tue, 8 Nov 2022 16:41:47 +0000  
**To:** CRT DRS Section  
**Subject:** DAAG Weekly for Week Ending Nov 14, 2022  
**Attachments:** DAAG November 7 2022 to OAAG.docx

## DISABILITY RIGHTS SECTION WEEKLY REPORT

November 8, 2022

**FROM:** Rebecca Bond  
Chief, Disability Rights Section

**SUBJECT:** Disability Rights Section Report for the Week Ending November 14, 2022

### Significant Activities Last Week, This Week, Next Week, & 30-Day Look Ahead

#### LAST WEEK'S EVENTS (November 1 through November 7, 2022)

##### Speaking Engagement

On November 1, 2022, a representative from the Disability Rights Section Trial Attorney Megan Schuller presented virtually at the Digital Accessibility Legal Summit about the Section's accessible technology work.

##### Enforcement

*Nebraska* (D. Neb.) (DJ 204-45-99) (Elizabeth Westfall, (b) (6)) From November 1-4, 2022, Disability Rights Section staff conducted a site visit to further an investigation of Nebraska's employment and day services for individuals with serious mental illness under Title II of the Americans with Disabilities Act.

*United States v. Florida* (S.D. Fla., No. 12-cv-60460) (DJ 204-18-212) (Elizabeth McDonald, (b) (6)) On October 31, 2022, the Section filed a motion for protective order to narrow the scope of the noticed Rule 30(b)(6) deposition of the United States. The Section filed its opposition to the State's second motion to compel better interrogatory answers on November 2, 2022. Magistrate Judge Hunt will likely hear both motions simultaneously, sometime before November 17, 2022. In this lawsuit, the United States alleges that Florida unnecessarily segregates children with complex medical needs in nursing facilities, and places other children at risk of such segregation, in violation of Title II of the Americans with Disabilities Act.

*United States v. North Carolina* (E.D.N.C.) (DJ 204-54-121) (Elizabeth McDonald, (b) (6)) Section staff traveled to North Carolina on November 3-4, 2022 for a site visit and a quarterly parties' meeting with the State. The parties entered into a settlement agreement in 2012 to resolve allegations that the State was unnecessarily segregating thousands of individuals with serious mental illness in adult care homes, in violation of Title II of the Americans with Disabilities Act. On March 26, 2021, the United States and the State jointly moved to enter a modification of their

settlement agreement. The modification extended most of the agreement through July 1, 2023, while allowing some of its provisions to expire on July 1, 2021. The U.S. Attorney's Office was notified of the visit.

### **Regulations, Interpretation, and Coordination**

*Board Meeting of the U.S. Access Board* (Christina Galindo-Walsh, (b) (6)) The U.S. Access Board held two days of Board meetings from Monday, November 7, through Tuesday, November 8 2022. The two days primarily consisted of closed committee meetings, one of which was used to brief Board members on any changes made to the regulatory text for its Public Rights-of-Way Accessibility Guidelines (PROWAG) rule in response to preliminary comments from Board members. At the formal Board meeting on Wednesday, November 9, there will be two votes held. The first vote will be to approve the July 13, 2022 meeting minutes with a second vote scheduled to revise the Board's bylaws.

### **THIS WEEK'S EVENTS (November 8 through November 14, 2022)**

#### **Speaking Engagements**

On November 8, 2022, representatives from the Disability Rights Section's management team-- Rebecca Bond, Christina Galindo-Walsh, Roberta Kirkendall, Jennifer McDannell, Elizabeth McDonald, and Elizabeth Westfall -- will present at the ADA National Network Project Director's Meeting in Arlington, Virginia, about the Section's work.

#### **Enforcement**

*Nebraska* (D. Neb.) (DJ 204-45-99) (Elizabeth Westfall, (b) (6)) During the week of November 14, 2022, Disability Rights Section staff will conduct a site visit to further an investigation of Nebraska's employment and day services for individuals with serious mental illness under Title II of the Americans with Disabilities Act. Section staff will travel with an expert to interview individuals living in the State psychiatric hospital to assess whether those individuals are being unnecessarily segregated in the institution in violation of Title II.

### **Regulations, Interpretation, and Coordination**

No items to report.

#### **Other**

Disability Rights Section staff and U.S. Attorney's Offices will conduct ADA monitoring on Election Day in the following jurisdictions: Centre County, PA; Harris County, TX; Newton

County, AR; Cole County, MO; Lexington County, SC; Los Angeles County, CA: Spartanburg County, SC.

**NEXT WEEK'S EVENTS**  
**(November 15 through November 21, 2022)**

**Speaking Engagements**

No items to report.

**Enforcement**

*Alabama Hepatitis C* (M.D. Ala.) (DJ 204-2-64) (Jennifer McDannell, (b) (6)) The Disability Rights Section anticipates entering into a settlement with Alabama. The Section opened this investigation in response to a complaint alleging that the Alabama Medicaid Agency violates Title II of the Americans with Disabilities Act by refusing medications to people with Hepatitis C (HCV) unless they meet non-medically indicated sobriety restrictions. The Section's proposed settlement agreement would require that Alabama eliminate all sobriety restrictions for HCV treatment and provide ongoing notice of the change to all Medicaid providers and Medicaid recipients.

*Betancourt-Colon v. City of San Juan* (D.P.R.) (DJ No. 204-65-37) (Amanda Maisels, (b) (6)) (b) (6) On November 17, 2022, Disability Rights Section staff will participate in a virtual court mediation session with the parties. Section staff recently participated in in-person negotiations and a mediation in San Juan during the week of October 24. Those discussions were productive, and the parties are optimistic that they will have an agreement in principle by the conclusion of the mediation session on November 17. On September 12, 2022, the Section intervened in this private suit alleging that the public sidewalk system in San Juan is inaccessible in violation of Title II of the Americans with Disabilities Act. The Section previously filed a statement of interest in this matter and its resolution is directly relevant to the Section's enforcement of related noncompliance findings referred by the Federal Highway Administration in March 2022.

*University of California at Berkeley* (N.D. Cal.) (DJ 204-11-309) (Amanda Maisels, (b) (6)) (b) (6) The Disability Rights Section anticipates executing a consent decree in mid-November, and filing a complaint and consent decree on November 21, 2022. The parties reached a settlement in principle on October 3, 2022, but the Board of Regents of the University of California will not be able to vote on the agreement until mid-November. On May 9, 2022, the Disability Rights Section obtained authorization from the OAAG to file a lawsuit against the University of California at Berkeley (UC Berkeley) alleging that the university violates Title II of the Americans with Disabilities Act by providing public online content, such as courses, lectures, and conferences, that is inaccessible to individuals with disabilities, including those who have vision, hearing, and certain mobility disabilities. On May 24, 2022, the Section sent a letter notifying UC Berkeley, and the parties held multiple settlement negotiations. Under the terms of the proposed consent decree, which must be approved by the Court, UC Berkeley will



make all future and the vast majority of its existing online content accessible to people with disabilities.

### **Regulations, Interpretation, and Coordination**

No items to report.

## **30-DAY LOOK AHEAD**

### **Speaking Engagements**

No items to report.

### **Enforcement**

*Iowa City Community School District* (S.D. Iowa), DJ No. 204-28-92 (Anne Raish, (b) (6)) The Disability Rights Section anticipates requesting authorization for a modest extension of a Title II settlement agreement between the United States and the Iowa City Community School District (ICCSA). The extension is sought to address supply chain demands that are delaying the timeline for remediation of physical access violations at two playgrounds covered by the settlement agreement. The Disability Rights Section entered into the settlement agreement with ICCSD, which requires remediation of physical access violations at twelve playgrounds, on June 2, 2020. The agreement is currently set to expire on June 2, 2023.

*Los Angeles County Registrar-Recorder's Office* (C.D. Cal.) (DJ 204-12C-476) (AUSA Richard Park, (b) (6)) Robbie Kirkendall, (b) (6) The U.S. Attorney's Office for the Central District of California, through the Disability Rights Section's U.S. Attorney Program, anticipates seeking authorization to propose a consent decree in this voting-related matter for alleged violations of Title II of the Americans with Disabilities Act by the Los Angeles County Registrar-Recorder's Office. On February 11, 2022 the USAO received authorization from the OAAG to issue a letter of findings. The USAO investigated LA County for failures to ensure accessible voting centers for qualified voters with disabilities. During the March 3, 2020 Primary Election, the USAO and DRS conducted site visits of 106 voting centers. Based on these site visits and other information, it was found that all 106 voting centers were not physically accessible to persons with disabilities. USAO and DRS staff will be monitoring additional vote centers during the November 8, 2022 election.

*West Memphis School District* (E.D. Ark.) (DJ 205-9-9) (Anne Raish, (b) (6)) The Disability Rights Section anticipates that it will request authorization to file a lawsuit under Title I of the Americans with Disabilities Act against West Memphis School District (WMSD). The Section opened this investigation following referral of an EEOC complaint that alleged WMSD engaged in discriminatory employment practices in violation of the ADA when it failed to provide a science curriculum specialist with asthma complicated by obesity with a reasonable accommodation of remote work during the height of the COVID-19 pandemic, failed to engage in an interactive process, and constructively discharged her. If this suit is authorized, the Section will initiate pre-suit negotiations with WMSD.

*United States v. Barnet Dulaney Perkins Eye Center*, No. 21-cv-2172 (D. Ariz.) (DJ 202-8-348) (Kevin Kijewski, (b) (6)) The Disability Rights Section anticipates that it will request authorization to enter into a consent decree to resolve this pattern or practice lawsuit filed under Title III of the Americans with Disabilities Act, alleging that Barnet Dulaney Perkins and American Vision Partners discriminate against individuals who, because of disability, need assistance transferring to and from wheelchairs for surgery.

### **Regulations, Interpretation, and Coordination**

*Employment Services Technical Assistance* (Elizabeth Westfall, (b) (6)) The Disability Rights Section anticipates issuing a technical assistance document, “Questions and Answers on the Application of the ADA’s Integration Mandate and *Olmstead v. L.C.* to Public Employment and Day Services for People with Disabilities.” The proposed publication provides technical assistance on how the integration mandate applies to sheltered workshops and facility-based day programs. In 2017, the Department withdrew a 2016 guidance on this topic to allow for further stakeholder discussion in light of public comments. The Disability Rights Section anticipates issuing a Federal Register notice addressing the changes to the guidance.

*Access Board Public Rights-of-Way Accessibility Guidelines (PROWAG)* (Christina Galindo-Walsh, (b) (6)) The Regulations, Interpretation and Coordination (RIC) unit of the Disability Rights Section has been carefully reviewing the Access Board’s most recent draft of their PROWAG regulatory text. The RIC unit recently coordinated joint staff-level comments with the Federal Highway Administration, which were shared with the Access Board last week. The Access Board is continuing work on its preamble and Regulatory Impact Analysis (RIA) and it plans to circulate its entire regulatory package—the regulatory text, the preamble, and the RIA—to the Board in late November. The RIC unit will review the preamble and RIA once those additional parts of the rulemaking package are made available. Prior to the vote by the entire Board, the Access Board plans to convene its Special Committee on PROWAG (to which the AAG was appointed) to decide whether to recommend approval of the PROWAG rule by the full Board. DRS will brief the OAAG on any outstanding concerns with the Access Board’s PROWAG rule prior to the Special Committee’s vote and vote of the full Board.

Elizabeth S. Westfall  
Deputy Chief  
Disability Rights Section, Civil Rights Division  
U.S. Department of Justice  
150 M Street, NE / 9.216  
Washington, DC 20002  
(b) (6) (cell)

**From:** Johnson, Elizabeth (CRT)  
**Sent:** Wed, 26 Oct 2022 13:40:26 +0000  
**To:** Herren, Chris (CRT)  
**Cc:** Russ, Bert (CRT); Maisels, Amanda (CRT); Westfall, Elizabeth (CRT)  
**Subject:** DRS and USAO Staff doing ADA election monitoring

Hi Chris,

The following counties will have DRS and USAO personnel conducting investigations in:

Center County, PA: 2 staff (1 DRS, 1 USAO) on Election Day

Los Angeles County, CA: 3 staff (1 DRS, 2 USAO) during early voting (there may be additional monitoring dependent on funding)

Sitka City-Borough, AK: 2 staff (1 DRS, 1 USAO) during early voting

We are unsure yet if we will be in:

Newton County, AR: 1-2 staff (1-2 DRS) during early voting and on Election Day

Kansas City, MO: 4 staff (2 DRS, 2 USAO)

I will confirm later this week. Amanda will supply you with the Harris County numbers. Also, our plans to monitor in Tarrant County, TX were cancelled when the County said we were not authorized under Texas law to enter polling places.

Please let me know if you need anything else.  
Thanks. Elizabeth

**From:** Westfall, Elizabeth (CRT)  
**Sent:** Tue, 8 Nov 2022 16:41:15 +0000  
**To:** Mathis, Jennifer (CRT); Weiner, Robert (CRT); Cochran, Shaylyn (CRT)  
**Cc:** Bond, Rebecca (CRT); Young, Anna (CRT)  
**Subject:** DRS DAAG Weekly for the Week Ending Nov 14, 2022  
**Attachments:** DAAG November 7 2022 to OAAG.docx

Hi, all – please see attached DRS DAAG Weekly for the Week Ending Nov 14, 2022.

Thanks,  
Elizabeth

Elizabeth S. Westfall  
Deputy Chief  
Disability Rights Section, Civil Rights Division  
U.S. Department of Justice  
150 M Street, NE / 9.216  
Washington, DC 20002  
(b) (6) (cell)

**From:** Westfall, Elizabeth (CRT)  
**Sent:** Tue, 15 Nov 2022 18:56:00 +0000  
**To:** Mathis, Jennifer (CRT);Cochran, Shaylyn (CRT);Weiner, Robert (CRT)  
**Cc:** Bond, Rebecca (CRT);Young, Anna (CRT)  
**Subject:** DRS DAAG Weekly for the Week Ending November 21, 2022  
**Attachments:** DAAG November 15 2022 to OAAG.docx

Hi, all – please see attached DRS DAAG Weekly for the Week Ending November 21, 2022.

Thanks,  
Elizabeth

Elizabeth S. Westfall  
Deputy Chief  
Disability Rights Section, Civil Rights Division  
U.S. Department of Justice  
150 M Street, NE / 9.216  
Washington, DC 20002  
(b) (6) (cell)

## DISABILITY RIGHTS SECTION WEEKLY REPORT

November 15, 2022

FROM: Rebecca Bond  
Chief, Disability Rights Section

SUBJECT: Disability Rights Section Report for the Week Ending November 21, 2022

### **Significant Activities Last Week, This Week, Next Week, & 30-Day Look Ahead**

#### **LAST WEEK'S EVENTS (November 8 through November 14, 2022)**

##### **Speaking Engagement**

On November 8, 2022, representatives from the Disability Rights Section's management team—Rebecca Bond, Christina Galindo-Walsh, Roberta Kirkendall, Jennifer McDannell, Elizabeth McDonald, and Elizabeth Westfall—presented at the ADA National Network Project Director's Meeting in Arlington, Virginia, about the Section's work.

##### **Enforcement**

*Iowa City Community School District* (S.D. Iowa), DJ No. 204-28-92 (Anne Raish, (b) (6))  
The Disability Rights Section requested authorization for an extension of a Title II settlement agreement between the United States and the Iowa City Community School District (ICCSA). The extension is sought to address supply chain demands that are delaying the timeline for remediation of physical access violations at two playgrounds covered by the settlement agreement. The Disability Rights Section entered into the settlement agreement with ICCSD, which requires remediation of physical access violations at twelve playgrounds, on June 2, 2020. The agreement is currently set to expire on June 2, 2023.

##### **Regulations, Interpretation, and Coordination**

*Board Meeting of the U.S. Access Board* (Christina Galindo-Walsh, (b) (6)) The U.S. Access Board held three days of Board meetings last week from November 7- 9, 2022. The three days primarily consisted of closed committee meetings, one of which was used to brief Board members on changes made to the regulatory text for its Public Rights-of-Way Accessibility Guidelines (PROWAG). At the formal Board meeting on November 9, there were two votes held. The first vote approved the July 13, 2022 meeting minutes, and the second vote revised the Board's bylaws. The next Board meeting is scheduled for January 9-11, 2023.

##### **Other**

Disability Rights Section staff and U.S. Attorney's Offices conducted ADA monitoring on Election Day in the following jurisdictions: Centre County, PA; Harris County, TX; Newton County, AR; Cole County, MO; Lexington County, SC; Los Angeles County, CA; Spartanburg County, SC.

**THIS WEEK'S EVENTS**  
**(November 15 through November 21, 2022)**

**Speaking Engagements**

No items to report.

**Enforcement**

*West Memphis School District* (E.D. Ark.) (DJ 205-9-9) (Anne Raish, (b) (6)) The Disability Rights Section anticipates that it will request authorization to file a lawsuit under Title I of the Americans with Disabilities Act against West Memphis School District (WMSD). The Section opened this investigation following referral of an EEOC complaint that alleged WMSD engaged in discriminatory employment practices in violation of the ADA when it failed to provide a science curriculum specialist with asthma complicated by obesity with a reasonable accommodation of remote work during the height of the COVID-19 pandemic, failed to engage in an interactive process, and constructively discharged her. If this suit is authorized, the Section will initiate pre-suit negotiations with WMSD.

*United States v. Florida* (S.D. Fla., No. 12-cv-60460) (DJ 204-18-212) (Elizabeth McDonald, (b) (6)) On November 15, 2022, the United States will appear at a virtual hearing before the magistrate judge on its motion for protective order to narrow the scope of the noticed Rule 30(b)(6) deposition of the United States and in opposition to the State's second motion to compel better interrogatory answers. The parties have agreed to postpone the 30(b)(6) deposition of the United States until the court's ruling. In this lawsuit, the United States alleges that Florida unnecessarily segregates children with complex medical needs in nursing facilities, and places other children at risk of such segregation, in violation of Title II of the Americans with Disabilities Act.

*Nebraska* (D. Neb.) (DJ 204-45-99) (Elizabeth Westfall, (b) (6)) From November 14-18, 2022, Disability Rights Section staff will conduct a site visit to further an investigation of Nebraska's employment and day services for individuals with serious mental illness under Title II of the Americans with Disabilities Act. Section staff traveled with an expert to interview individuals living in the State psychiatric hospital to assess whether those individuals are being unnecessarily segregated in the institution in violation of Title II.

*University of California at Berkeley* (N.D. Cal.) (DJ 204-11-309) (Amanda Maisels, (b) (6)) (b) (6) The Disability Rights Section anticipates executing a consent decree in mid-November, and filing a complaint and consent decree on November 21, 2022. The parties reached a settlement in principle on October 3, 2022, but the Board of Regents of the University of California will not be able to vote on the agreement until mid-November. On May 9, 2022, the Disability Rights Section obtained authorization from the OAG to file a lawsuit against the University of California at Berkeley (UC Berkeley) alleging that the university violates Title II of the Americans with Disabilities Act by providing public online content, such as courses, lectures, and conferences, that is inaccessible to individuals with disabilities, including those who have vision, hearing, and certain mobility disabilities. On May 24, 2022, the Section sent a letter notifying UC Berkeley, and the parties held multiple settlement negotiations. Under the

terms of the proposed consent decree, which must be approved by the Court, UC Berkeley will make all future and the vast majority of its existing online content accessible to people with disabilities.

### **Regulations, Interpretation, and Coordination**

*Launch of new ADA.gov* (Christina Galindo-Walsh, (b) (6)) The launch of the new version of the Americans with Disabilities Act (ADA) website, [www.ada.gov](http://www.ada.gov), is planned for the evening of November 17, 2022. The redesigned website, which is fully compatible with mobile devices, is written in plain language so that information is easy to understand. The website includes improved navigation tools that will help users to find the information they seek more quickly. The website also provides overviews of featured topics. These overviews are designed to answer 80 percent of common questions about each topic by giving high-level, plain-language summaries of information about the ADA that the department has previously made available in other ways. The legacy ADA.gov will be available at [archive.ADA.gov](http://archive.ADA.gov); archiving the legacy site simply means that the site will no longer be updated.

## **NEXT WEEK'S EVENTS (November 22 through November 28, 2022)**

### **Speaking Engagements**

No items to report.

### **Enforcement**

*Alabama Hepatitis C* (M.D. Ala.) (DJ 204-2-64) (Jennifer McDannell, (b) (6)) The Disability Rights Section anticipates entering into a settlement with Alabama. The Section opened this investigation in response to a complaint alleging that the Alabama Medicaid Agency violates Title II of the Americans with Disabilities Act by refusing medications to people with Hepatitis C (HCV) unless they meet non-medically indicated sobriety restrictions. The Section's proposed settlement agreement would require that Alabama eliminate all sobriety restrictions for HCV treatment and provide ongoing notice of the change to all Medicaid providers and Medicaid recipients.

### **Regulations, Interpretation, and Coordination**

No items to report.

## **30-DAY LOOK AHEAD**

### **Speaking Engagements**

No items to report.



## **Enforcement**

*Los Angeles County Registrar-Recorder's Office* (C.D. Cal.) (DJ 204-12C-476) (AUSA Richard Park, (b) (6) Robbie Kirkendall, (b) (6)) The U.S. Attorney's Office for the Central District of California, through the Disability Rights Section's U.S. Attorney Program, anticipates seeking authorization to propose a consent decree in this voting-related matter for alleged violations of Title II of the Americans with Disabilities Act by the Los Angeles County Registrar-Recorder's Office. On February 11, 2022 the USAO received authorization from the OAAG to issue a letter of findings. The USAO investigated LA County for failures to ensure accessible voting centers for qualified voters with disabilities. During the March 3, 2020 Primary Election, the USAO and DRS conducted site visits of 106 voting centers. Based on these site visits and other information, it was found that all 106 voting centers were not physically accessible to persons with disabilities. USAO and DRS staff monitored additional vote centers during the November 8, 2022 election.

*United States v. Barnet Dulaney Perkins Eye Center*, No. 21-cv-2172 (D. Ariz.) (DJ 202-8-348) (Kevin Kijewski, (b) (6)) The Disability Rights Section anticipates that it will request authorization to enter into a consent decree to resolve this pattern or practice lawsuit filed under Title III of the Americans with Disabilities Act, alleging that Barnet Dulaney Perkins and American Vision Partners discriminate against individuals who, because of disability, need assistance transferring to and from wheelchairs for surgery.

## **Regulations, Interpretation, and Coordination**

*Employment Services Technical Assistance* (Elizabeth Westfall, (b) (6)) The Disability Rights Section anticipates issuing a technical assistance document, "Questions and Answers on the Application of the ADA's Integration Mandate and *Olmstead v. L.C.* to Public Employment and Day Services for People with Disabilities." The proposed publication provides technical assistance on how the integration mandate applies to sheltered workshops and facility-based day programs. In 2017, the Department withdrew a 2016 guidance on this topic to allow for further stakeholder discussion in light of public comments. The Disability Rights Section anticipates issuing a Federal Register notice addressing the changes to the guidance.

*Access Board Public Rights-of-Way Accessibility Guidelines (PROWAG)* (Christina Galindo-Walsh, (b) (6)) The Regulations, Interpretation and Coordination (RIC) unit of the Disability Rights Section has been carefully reviewing the Access Board's most recent draft of their PROWAG regulatory text. The RIC unit recently coordinated joint staff-level comments with the Federal Highway Administration, which were shared with the Access Board last week. The Access Board is continuing work on its preamble and Regulatory Impact Analysis (RIA) and it plans to circulate its entire regulatory package – the regulatory text, the preamble, and the RIA to the Board in late November. The RIC unit will review the preamble and RIA once those additional parts of the rulemaking package are made available. Prior to the vote by the entire Board, the Access Board plans to convene its Special Committee on PROWAG (to which the AAG was appointed) to decide whether to recommend approval of the PROWAG rule by the full Board. DRS will brief the OAAG on any outstanding concerns with the Access Board's PROWAG rule prior to the Special Committee's vote and vote of the full Board.

**From:** Johnson, Elizabeth (CRT)  
**Sent:** Wed, 19 Oct 2022 00:26:22 +0000  
**To:** Russ, Bert (CRT)  
**Cc:** Westfall, Elizabeth (CRT)  
**Subject:** Election Monitoring

Bert, so far USAOs will be conducting an investigation during the election in the following counties:

Los Angeles County, CA  
Centre County, PA  
Tarrant County, TX

DRS and the USAO will also be in the Sitka City Borough, AK  
Thanks!

Elizabeth Johnson  
Senior Trial Attorney  
Disability Rights Section  
Civil Rights Division  
Department of Justice

(b) (6) (office)

(b) (6) (cell)

(b) (6)

**From:** Westfall, Elizabeth (CRT)  
**Sent:** Tue, 8 Nov 2022 16:02:20 +0000  
**To:** Baldwin, Anna (CRT)  
**Subject:** FW: In the Cole County, MO meeting today

There will be more of this to come....

**From:** Kirkendall, Roberta (CRT) <(b) (6)>  
**Sent:** Monday, November 7, 2022 2:33 PM  
**To:** Bond, Rebecca (CRT) <(b) (6)>; Westfall, Elizabeth (CRT) <(b) (6)>  
**Cc:** Raish, Anne (CRT) <(b) (6)>; Kijewski, Kevin (CRT) <(b) (6)>; McDannell, Jennifer (CRT) <(b) (6)>; McDonald, Elizabeth (CRT) <(b) (6)>; Maisels, Amanda (CRT) <(b) (6)>  
**Subject:** In the Cole County, MO meeting today

The Secretary of State indicated that DOJ doesn't have Title II enforcement authority, that only private plaintiffs have such authority. EJ indicated that was not a conversation up for discussion at the meeting, so avoided a back and forth on the issue with the folks in the room, but I wanted folks to know that was said today. 😊

Roberta S. Kirkendall  
Special Legal Counsel  
U.S. Attorney Program for ADA Enforcement  
Disability Rights Section  
Civil Rights Division  
Department of Justice  
(b) (6)

**From:** Westfall, Elizabeth (CRT)  
**Sent:** Tue, 8 Nov 2022 15:18:46 +0000  
**To:** Fox, Deena (CRT)  
**Subject:** FW: In the Cole County, MO meeting today

Re: Missouri

# Duplicative Material



**From:** Fox, Deena (CRT)  
**Sent:** Tue, 8 Nov 2022 15:59:54 +0000  
**To:** Westfall, Elizabeth (CRT)  
**Subject:** RE: In the Cole County, MO meeting today

Oy. Thank you for the heads up.

# Duplicative Material



**From:** Baldwin, Anna (CRT)  
**Sent:** Tue, 8 Nov 2022 16:04:00 +0000  
**To:** Westfall, Elizabeth (CRT)  
**Subject:** RE: In the Cole County, MO meeting today

Sigh... they all are on the same group chat.

# Duplicative Material



**From:** Baldwin, Anna (CRT)  
**Sent:** Tue, 8 Nov 2022 17:03:37 +0000  
**To:** Westfall, Elizabeth (CRT)  
**Subject:** RE: In the Cole County, MO meeting today

Is the MO part of this story about this meeting?

<https://www.washingtonpost.com/politics/2022/11/08/justice-department-monitors-florida-desantis/>

# Duplicative Material



**From:** Westfall, Elizabeth (CRT)  
**Sent:** Tue, 8 Nov 2022 21:28:09 +0000  
**To:** Baldwin, Anna (CRT)  
**Subject:** RE: In the Cole County, MO meeting today

Yep...MO and FL refused to let us into the polling places.

# Duplicative Material





**From:** Bond, Rebecca (CRT)  
**Sent:** Mon, 7 Nov 2022 21:24:16 +0000  
**To:** Westfall, Elizabeth (CRT)  
**Subject:** Re: DRS ADA Election monitoring

Yes, I think we should.

Sent from my iPhone

On Nov 7, 2022, at 4:19 PM, Westfall, Elizabeth (CRT) <(b) (6)> wrote:

Should I include this in the DAAG weekly?

**From:** Westfall, Elizabeth (CRT)  
**Sent:** Wednesday, November 2, 2022 10:37 AM  
**To:** Mathis, Jennifer (CRT) (b) (6)  
**Cc:** Bond, Rebecca (CRT) (b) (6); Raish, Anne (CRT) (b) (6)  
**Subject:** DRS ADA Election monitoring

Hi, Jennifer – I am writing to provide you with a list of jurisdictions in which DRS and USAOs will be doing ADA monitoring during early voting or on Election Day. We have also provided this list to the Voting Section.

Please let us know if you have questions.

Thanks,  
Elizabeth

Center County, PA: 2 staff (1 DRS, 1 USAO) on Election Day  
Los Angeles County, CA: 3 staff (1 DRS, 2 USAO) during early voting  
Sitka City-Borough, AK: 2 staff (1 DRS, 1 USAO) during early voting  
Harris County, TX: (1 DRS, 1 USAO, 4 expert contractors)  
Newton County, AR: 2 staff (1 DRS, 1 USAO) on Election Day  
Cole County, MO: 4 staff (2 DRS, 2 USAO) during in person absentee and on Election Day  
Lexington County, SC: 1 staff (1 USAO) on Election Day  
Spartanburg County, SC: 1 staff (1 USAO) on Election Day

Elizabeth S. Westfall  
Deputy Chief  
Disability Rights Section, Civil Rights Division  
U.S. Department of Justice  
150 M Street, NE / 9.216  
Washington, DC 20002  
(b) (6) (cell)

**From:** Johnson, Elizabeth (CRT)  
**Sent:** Tue, 1 Nov 2022 22:01:21 +0000  
**To:** Herren, Chris (CRT); Maisels, Amanda (CRT)  
**Cc:** Russ, Bert (CRT); Westfall, Elizabeth (CRT)  
**Subject:** RE: DRS and USAO Staff doing ADA election monitoring

Hi Chris, updates to our election monitoring in bold.  
Center County, PA: 2 staff (1 DRS, 1 USAO) on Election Day  
Los Angeles County, CA: 3 staff (1 DRS, 2 USAO) during early voting  
Sitka City-Borough, AK: 2 staff (1 DRS, 1 USAO) during early voting  
Harris County, TX: (1 DRS, 1 USAO, 4 expert contractors)  
**Newton County, AR: 1 staff (1 USAO) on Election Day**  
**Cole County, MO: 4 staff (2 DRS, 2 USAO) during in person absentee and on Election Day**  
**Lexington County, SC: 1 staff (1 USAO) on Election Day**  
**Spartanburg County, SC: 1 staff (1 USAO) on Election Day**

-----Original Message-----

From: Herren, Chris (CRT) (b) (6)  
Sent: Wednesday, October 26, 2022 10:08 AM  
To: Maisels, Amanda (CRT) (b) (6); Johnson, Elizabeth (CRT)  
(b) (6)  
Cc: Russ, Bert (CRT) (b) (6); Westfall, Elizabeth (CRT) (b) (6)  
Subject: RE: DRS and USAO Staff doing ADA election monitoring

Thanks so much!

-----Original Message-----

From: Maisels, Amanda (CRT) (b) (6)  
Sent: Wednesday, October 26, 2022 10:08 AM  
To: Herren, Chris (CRT) (b) (6); Johnson, Elizabeth (CRT)  
(b) (6)  
Cc: Russ, Bert (CRT) (b) (6); Westfall, Elizabeth (CRT) (b) (6)  
Subject: RE: DRS and USAO Staff doing ADA election monitoring

And we will have 6 people in Harris County (1 DRS, 1 USAO, 4 expert contractors).

Amanda Maisels  
Deputy Chief  
Disability Rights Section  
(c) (b) (6)

-----Original Message-----

From: Herren, Chris (CRT) (b) (6)  
Sent: Wednesday, October 26, 2022 9:41 AM  
To: Johnson, Elizabeth (CRT) (b) (6)  
Cc: Russ, Bert (CRT) (b) (6); Maisels, Amanda (CRT) (b) (6)  
Westfall, Elizabeth (CRT) (b) (6)

Subject: RE: DRS and USAO Staff doing ADA election monitoring

Thanks so much for your help!

# Duplicative Material



**From:** Johnson, Elizabeth (CRT)  
**Sent:** Mon, 7 Nov 2022 21:38:00 +0000  
**To:** Westfall, Elizabeth (CRT)  
**Subject:** Re: for DAAG weekly

Los Angeles County, too. On Election Day, though, it will just be USAO staff. Same with Harris County, just USAO staff and consultant. I would include both, though, as DRS staff was in LA for early voting.

And I would say “during the November 8 general election” or “on Election Day.”

And Centre County is spelled Centre.

Thanks!

On Nov 7, 2022, at 3:27 PM, Westfall, Elizabeth (CRT) (b) (6) wrote:

Hi – is this accurate? It’s for the DAAG weekly.

Disability Rights Section staff and U.S. Attorney's Offices will conduct ADA monitoring during Election Day in the following jurisdictions: Center County, PA; Harris County, TX; Newton County, AR; Cole County, MO; Lexington County, SC; Spartanburg County, SC.

Elizabeth S. Westfall  
Deputy Chief  
Disability Rights Section, Civil Rights Division  
U.S. Department of Justice  
150 M Street, NE / 9.216  
Washington, DC 20002  
(b) (6) (cell)

**From:** Bond, Rebecca (CRT)  
**Sent:** Mon, 7 Nov 2022 19:36:04 +0000  
**To:** Kirkendall, Roberta (CRT); Westfall, Elizabeth (CRT)  
**Cc:** Raish, Anne (CRT); Kijewski, Kevin (CRT); McDannell, Jennifer (CRT); McDonald, Elizabeth (CRT); Maisels, Amanda (CRT)  
**Subject:** RE: In the Cole County, MO meeting today

Thanks for letting us know.

# Duplicative Material

