

P&A TiDBITS

LEGAL NEWS & other

Disability-Related info

SEPTEMBER

2021

SEPTEMBER IS

Suicide Prevention Awareness Month

Suicidal thoughts, much like mental health conditions, can affect anyone regardless of age, gender or background. In fact, suicide is often the result of an untreated mental health condition. Suicidal thoughts, although common, should not be considered normal and often indicate more serious issues.

September is Suicide Prevention Awareness Month — a time to raise awareness on this stigmatized, and often taboo, topic. In addition to shifting public perception, we use this month to spread hope and vital information to people affected by suicide. Our goal is ensuring that individuals, friends and families have access to the resources they need to discuss suicide prevention and to seek help.

Throughout the month of September, NAMI will highlight "Together for Mental Health," which encourages people to bring their voices together to advocate for better mental health care, including a crisis response system. NAMI wants any person experiencing suicidal thoughts or behaviors to have a number to call, a system to turn to, that would connect them to the treatment and support they need.



To read more, go to: <https://www.nami.org/get-involved/awareness-events/suicide-prevention-awareness-month>



If you or someone you know is in an emergency, call The National Suicide Prevention Lifeline at **800-273-TALK (8255)** or call 911 immediately.



Help
ask · listen · tell



September also is

Alzheimer's Awareness Month



SEPTEMBER IS ALSO

National Guide Dog Month
Spinal Cord Injury Month

Other holidays:

September 6th – Labor Day
September 11th – 911 Remembrance Day
September 20th – 27th – International Week of the Deaf
September 21st – World Alzheimer's Day
September 23rd – International Day of Sign Language

HOLIDAY SCHEDULE

OUR OFFICE WILL BE CLOSED

OUR OFFICE WILL BE CLOSED MONDAY, SEPTEMBER 6TH IN OBSERVANCE OF LABOR DAY

NO, IT'S NOT TOO EARLY

National Voter Registration Day

Tuesday September 28, 2021



Voters with Disabilities: State and Local Actions and Federal Resources to Address Accessibility of Early Voting

The report from the U.S. Government Accountability Office (GAO) examines the steps that states and localities have taken to ensure that early in-person voting and mail-in voting are accessible to individuals with disabilities. This report addresses steps taken by selected states and localities to (1) make voting prior to Election Day accessible, and the challenges in doing so; and (2) make voting information available and accessible, and the challenges in doing so. It also addresses (3) Department of Justice (DOJ) and Election Assistance Commission (EAC) efforts to assist states and localities with voting accessibility. To read the report, go to: <https://www.gao.gov/products/gao-21-352>.



RECENT COURT DECISIONS

FILED
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

JOHN C. FRANK and GRASSFIRE, LLC,
Plaintiffs,
vs.
ED BUCHANAN, Wyoming Secretary of State, LEIGH ANNE MANLOVE, Laramie County District Attorney, DEBRA LEE, Laramie County Clerk, in their official capacities,
Defendants.

Case No. 20-CV-138-F

Margaret Botkins
Clerk of Court

ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT

On July 22, 2021, the Federal District Court for the District of Wyoming, Judge Nancy Freudenthal, rendered a decision that a Wyoming law prohibiting campaign activities within 300 feet of a polling place on election days is unconstitutional because the "buffer zone" is unreasonably large. In a July 22 order, the court ruled in support of arguments that the law banning "electioneering" within 100 yards of a polling place is an unreasonable restriction on First Amendment rights to free speech.

Laws that burden political speech are subject to constitutional attack under the "strict scrutiny" standard, which requires the State (or government) to prove that the restriction furthers a *compelling governmental interest* and is *narrowly tailored* to achieve that interest. However, noting that the U.S. Supreme Court never has held "a State to the burden of demonstrating empirically the objective effects on political stability that are produced by the voting regulation in question," a modified burden of proof adopted by the Court should apply in cases where a "First Amendment right threatens to interfere with the act of voting itself." The court applied this modified burden of proof standard.

In doing so, the court determined that the State had not met its burden to demonstrate that the statute's electioneering buffer zone is reasonable and did not significantly impinge on constitutionally protected rights. The statute at issue — Wyo. Stat. § 22-26-113 — proscribes electioneering within one hundred yards (over 300 feet) "on the day of a primary, general or special election" of any public entrance to the building in which the polling place is located." (Emphasis added) U.S. Supreme Court precedent was faced with a 100-foot zone, about one-third the size established in the Wyoming law. The court determined, however, Defendants presented no argument and offered no evidence to explain why the statute requires an electioneering buffer zone much larger than the law upheld, particularly given that the legislature also established a 100-foot electioneering buffer zone, which applied at other times, including the period within which absentee voters may cast their votes.

On the issue related to the constitutionality of the 100-foot electioneering buffer zone applicable on days other than the date of the primary or general election, the court upheld this portion of the law despite it being applicable to the entire period of absentee voting. Although the 100-foot buffer zone was upheld, the court's analysis reflects a firm requirement to prove impact on voting. Given the issues presented by new laws in Wyoming passed in the last legislative affecting voter identification, it is unclear whether this case will influence any challenge. P&A will track any challenges raised and provide further updates.



ADA Anniversary Presidential Proclamation



President Biden recognized the 31st anniversary of the signing of the ADA, calling the passage of the law a "testament not only to fearless advocacy, but to bipartisan progress" and "a triumph of American civil rights." The proclamation, noting that "the fight for equitable access and inclusion is far from over," outlines the Administration's goals to build on the legacy of the ADA and improve opportunities for people with disabilities.

The Biden-Harris Administration also issued a fact sheet on disability-related initiatives and resources including resources to support individuals with Long COVID, improve access to voting, increase funding for home- and community-based services, and enhance education and employment outcomes for individuals with disabilities.

For more information, go to: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/26/a-proclamation-on-anniversary-of-the-americans-with-disabilities-act-2021/>



To read the fact sheet, go to: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/26/fact-sheet-biden-harris-administration-marks-anniversary-of-americans-with-disabilities-act-and-announces-resources-to-support-individuals-with-long-covid/>



What People with Disabilities Need to Know about COVID-19

DON'T FORGET — HHS Hotline to Improve Access to COVID-19 Vaccines for People with Disabilities

The U.S. Department of Health and Human Services (HHS) launched a first-of-its-kind national hotline to connect people with disabilities to information and services to improve access to COVID-19 vaccines. The **Disability Information and Access Line (DIAL)** is now available to help people with disabilities get vaccinated. The DIAL's trained staff is standing by to:

- Help find local vaccination locations
- Assist with making vaccination appointments
- Connect callers to local services — such as accessible transportation — to overcome barriers to vaccination.

Help with COVID-19 vaccinations for people with disabilities

Call: 888-677-1199

Monday-Friday from 9 a.m. to 8 p.m. (Eastern) - or

email: DIAL@n4a.org

To learn more, go to: <https://acl.gov/DIAL>

DOJ and HHS: Guidance on “Long COVID” as a Disability

The U.S. Departments of Justice (DOJ) and Health and Human Services (HHS) jointly issued guidance to explain when people who experience long-lasting effects from COVID-19 (“long COVID”) may meet the definition of disability under the ADA, Section 504 of the Rehabilitation Act of 1973, and Section 1557 of the Patient Protection and Affordable Care Act (ACA).



U.S. Department of Health
Human Services
Office for Civil Rights

U.S. Department of Justice
Civil Rights Division
Disability Rights Section



Guidance on “Long COVID” as a Disability
Under the ADA, Section 504, and Section 1557

The guidance explains that long COVID can be a disability under Titles II (state and local government) and III (public accommodations) of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Section 1557 of the Patient Protection and Affordable Care Act (Section 1557). Each of these federal laws protects people with disabilities from discrimination.⁶ The guidance also provides resources for additional information and best practices. The guidance further stated: “This document focuses solely on long COVID, and does not address when COVID-19 may meet the legal definition of disability.”

To read the guidance, go to https://www.ada.gov/long_covid_joint_guidance.pdf.

Self-Employment Options for People with Psychiatric Disabilities: A New Program That Places Lived Experiences and Peer Mentoring at Its Center



This article from the **Job Accommodation Network (JAN)** features an interview with Dr. Laysha Ostrow, founder and CEO of Live and Learn, Inc., an organization focused on public health and mental health service

systems. Dr. Ostrow highlights current projects, including the development of resources to help people with psychiatric disabilities start or run a small business.

Dr. Ostrow describes and further documents the employment picture for people with psychiatric disabilities in her research. Of all disability groups, this sector has the lowest rate of employment even though research shows the majority of individuals want to work. She points out intersecting factors that may contribute to this including disrupted educational and work histories, discrimination and challenges fitting into workplace cultures, siloed mental health services disconnected from employment programs, and policy disincentives.

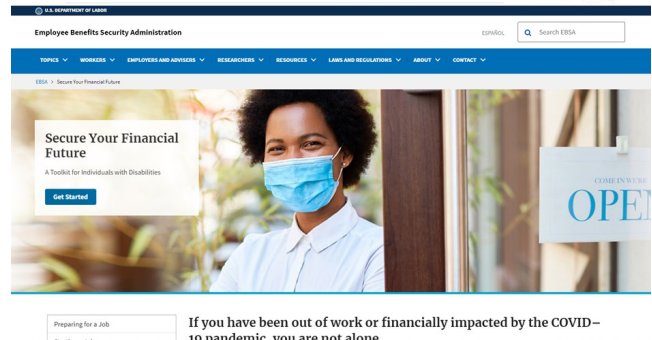
In research conducted by Live and Learn on peer support specialists in the field of mental health, study participants reported they did not lose their jobs due to being fired but felt compelled to leave due to untenable workplace situations. Dr. Ostrow feels the professionalization of certified peer support specialists as a career path did create job successes that could then lead to other educational and employment opportunities.

According to research, a flexible schedule is the most frequently requested accommodation by workers with psychiatric disabilities. With self-employment, these types of accommodations can be built into the design of the business from the outset. According to Dr. Ostrow, self-employment allows you to create your own work environment based on your values and what nurtures a successful work experience. In her case as an employer, she chooses employees who in addition to being qualified, are also nice people, and fit into a workplace culture that is positive, innovative, and provides opportunities to learn and grow.

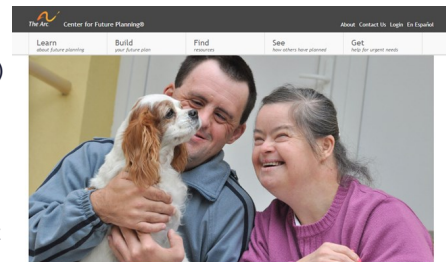
To read more, go to: <https://askjan.org/articles/Self-Employment-Options-for-People-with-Psychiatric-Disabilities.cfm>

Financial Planning Resources for People with Disabilities

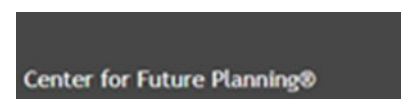
Secure Your Financial Future: A Toolkit for Individuals with Disabilities (<https://www.dol.gov/agencies/ebsa/secure-your-financial-future>) is a resource from the U.S. Department of Labor designed to help people with disabilities chart a path to success, from job preparation to retirement.



The Arc's Center for Future Planning (<https://futureplanning.thearc.org/>) offers a variety of resources in English and Spanish for people with intellectual and developmental disabilities, their families, and professionals who support them.



About The Arc and the Center for Future Planning®





It's National Guide Dog Month! Guide Dogs In Action

September is National Guide Dog Month. Dogs help us in so many ways. Some of those ways are unarguably more prevalent than others, such as the service that guide dogs give to their humans every month. Service dogs help people with everything, such as anxiety and seizures. They provide emotional and physical support and also serve to warn their humans when symptoms are imminent. They also serve as guide dogs for those with sensory issues like blindness. This provides added mobility and independence for those who might not have otherwise had such freedoms.

Whether your dog is a guide dog or just a companion that helps you guide through life with some added happiness, DogTime — a dog adoption advocacy organization — would like to commend and celebrate the work these dogs do to help their humans.

For more info, go to: <https://dogtime.com/advocacy/67375-its-national-guide-dog-month>.

COVID-19 has presented many hurdles for health and safety. New trends have also emerged, many of which impact the workplace. Remote working and virtual meetings, as well as other creative measures to continue “business as usual as best as could be done,” became the norm. Some businesses were forced to close altogether. Measures accomplished in the general population allowed for a return to some “normalcy.”



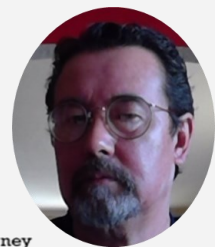
COVID is still with us almost a year and a half after it emerged, with an increased surge in infections prompted by a variant, which appears to significantly impact persons who have not been vaccinated. Schools and universities are reopening to regular classrooms. Employees are returning to the workplace, although many have continuing concerns with going back. Resistance to vaccination have raised issues of mandates or alternatives as movement to the “new normal” progresses.

Labor Day, held in honor of working people, signals the beginning of return to school after summer vacation and a day off for many. Yet, it does not strike me as the type of event to which most of us had become accustomed before the pandemic. Many are struggling to obtain employment. There may be other effects of the acclamation to remote working and isolation, which may be seen down the road — again likely prompting the need to develop creative and remedial solutions. With mass evictions seeming to be on the horizon, people with disabilities also may face impacts like others with limited resources. Many people with disabilities in fact want to work and achieve a level of self-independence. The ripple effect of the pandemic and attempts to overcome the obstacles presented is evident. It makes me wonder how people are celebrating Labor Day this year.

Often the last opportunity to “take off” to destinations before hunkering down to the usual routines brought about by the fall and winter to come, it might seem that this has not changed. What does appear to have changed is knowing what to expect beyond the usual anticipations typical of the new seasons to come. Will there be discomfort of requirements not experienced before, such as continued requirements for masks, or even vaccination?

Like many things, time will tell. When I tell others “Happy Labor Day,” it will be with my best wishes for things to come in the new season. That sentiment has not changed.

Robert Walters, P&A Staff Attorney



Accessibility News

Access Board Celebrates ADA Anniversary

The Access Board observed the ADA anniversary with a review of its work developing accessibility guidelines and standards under the ADA and other federal laws, as well as highlights of its recent activities, such as the release of its summary report on *Inclusive Design of Autonomous Vehicles: A Public Dialogue*.

For more information or to read the report, go to: <https://www.access-board.gov/av-report.html>.



Inclusive Design of Autonomous Vehicles: A Public Dialogue

Summary Report

U.S. Access Board
July 2021

FOR MORE
INFO

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