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eUpdate

Compliance with New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments: What Municipalities Need to Know

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In April 2024, the Federal Register published the Department of Justice's final rule ("Final Rule') updating its regulations for Title II of the Americans with Disabilities Act. The Final Rule requires local governments to update their websites and mobile applications to meet the technical standards of the Web Content Accessibility Guidelines ("WCAG") Version 2.1, Level AA. **Compliance for municipalities will be required beginning April 24, 2026 for those with 50,000 or more residents and April 26, 2027 for municipalities with smaller populations.** Compliance dates for counties, regional transit authorities, regional school districts, and housing authorities are based upon the total population of the entity's service area. Other types of governmental entities, classified as "special district governments," must comply with these requirements by April 26, 2027.

Although certain rules proposed by the Department of Justice have been "rolled back" by the current federal administration in recent months, no notice has been provided that the Final Rule will be repealed. In November 2025, the Department announced plans in the Federal Register to publish a Notice of Proposed Rulemaking ("NPRM") to reconsider whether some of the regulatory provisions imposed by the Final Rule could be made less costly. At this time, however, no NPRM has been published, and thus no changes have been made to the Final Rule. We will continue to monitor the situation, but as the deadlines for compliance are approaching, it is appropriate to continue efforts to comply with the technical standards required under the Final Rule.

Purpose. The Final Rule is intended to provide people with disabilities the same access as people without disabilities to local government services, programs, and activities available on websites and mobile apps. The Final Rule also seeks to provide local governments with additional clarity regarding their obligations under the Americans with Disabilities Act ("ADA").

Requirements. The Final Rule requires that government web content or mobile applications meet the technical standards set by WCAG Version 2.1, Level AA, regardless of whether the government provides this service directly or through an arrangement with a third party. This rule does not preclude a governmental entity now or in the future from complying with a higher standard than WCAG Version 2.1, Level AA.

Unless a technical or legal limitation prevents inaccessible web content or mobile applications from being made accessible, local governments should not create a separate web page or mobile application, so-called "conforming alternate versions"). See Section 35.202 of the Final Rule for more information about this issue.

Exceptions. Some kinds of web and mobile application content are exempt from the requirements and standards set by WCAG Version 2.1, Level AA. Exceptions include:

1. Archived web content:
    a. Created before the date the local government must comply with this rule, or reproduces paper documents or the contents of other physical media created before the government must comply with this rule;
    b. Kept only for reference, research, or recordkeeping;
    c. Kept in a special area for archived content; and
    d. Not changed since it was archived.
2. Preexisting conventional electronic documents, excluding those used to apply for, access, or participate in a local government's services, programs, or activities, and regardless of whether they were posted before the compliance deadline:
    a. In a word processing, presentation, PDF, or spreadsheet file format; and
    b. Available on the local government's website or mobile app before the compliance date.
3. Content posted by a third party where the third party is not posting for the governmental entity pursuant to contractual, licensing, or other arrangements.
4. Individualized documents that are password protected and are:
    a. Word processing, presentation, PDF, or spreadsheet files;
    b. About a specific person, property, or account; and
    c. Password-protected or otherwise secured.
5. Preexisting social media posts.

The full fact sheet provided by the Department of Justice is available here.

Given the highly technical nature of these requirements, it is appropriate to continue to engage with Information Technology personnel and/or vendor(s) to ensure that government website(s) and mobile application(s) will meet the minimum standards by the deadlines identified above.

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