



LEGAL ISSUES RELATING TO COUNTY GOVERNMENT

New ADA Rules Impact County Websites and Apps

By Andy Phillips and Jake Apostolu, Attorneys, Attolles Law, s.c.

Ensuring equal access to government services is a fundamental mandate under the Americans with Disabilities Act.¹ Title II of the ADA specifically prohibits public entities, including counties, from denying individuals with disabilities the benefits of government services, programs or activities.² Historically, this provision has applied to physical infrastructure, such as courthouses, public transportation, and polling places. While counties have long worked to improve physical accessibility through ramps, elevators, and other accommodations, digital access presents a growing challenge.

As local governments shift toward offering more and more services online — from building permit applications and tax payments to emergency notifications and voter registration — failing to provide accessible digital infrastructure can exclude a significant number of people.³

Recognizing this, the U.S. Department of Justice issued a final rule in April 2024, revising Title II of the ADA to establish specific accessibility requirements, including technical standards, for making accessible all state and local government services, programs, and activities offered to the public through the web and mobile applications.⁴ The rule reinforces that digital access to governmental services is as essential as physical access. This article discusses the core tenets of the rule and its technical standards.

► The final Title II rule issued in April 2024

The rule provides that “[each] public entity shall ensure that the following are readily accessible to and usable by individuals with disabilities: 1) [w]eb content that a public entity provides or makes available, directly or through contractual, licensing, or other arrangements;

and 2) [m]obile apps that a public entity provides or makes available, directly or through contractual, licensing, or other arrangements.”⁵ Examples of web content include text, images, sounds, videos, controls, animations, and conventional electronic documents.⁶ The term “mobile apps” means software applications that are downloaded and designed to run on mobile devices, such as smartphones and tablets.⁷

► Technical requirements

In connection with the rule, the DOJ adopted a set of internationally recognized accessibility standards developed by the World Wide Web Consortium, the Web Content Accessibility Guidelines 2.1(WCAG 2.1), published in June 2018.⁸ The WCAG 2.1 is organized into three compliance levels: A (basic), AA (mid-level), and AAA (highest). The rule requires public entities, including counties, to comply with Level AA, the industry standard and legal benchmark. The WCAG 2.1 was promulgated in accordance with four principles: perceivability, operability, understandability, and robustness of digital content.⁹

► Perceivability

The “perceivability principle” means that digital content must be presented in a way that all users, including those with sensory disabilities, can access it.¹⁰ This involves providing text alternatives for non-text content such as images, charts, and graphics; as well as providing time-based media accessibility so that videos and audio include captions, transcripts, or alternative formats to accommodate hearing impairments.¹¹

Individuals who are blind or have low vision rely on

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screen readers, which convert text into speech or braille. If a county's website includes images or graphics without alternative text descriptions, screen readers cannot interpret the content, rendering it inaccessible. Similarly, individuals who are deaf rely on captions or transcripts for video and audio content. Ensuring digital information is perceivable also means ensuring that it is adaptable enough to enable resizing, magnification, and alternative layouts without loss of meaning; as well as providing sufficient color contrast and separating foreground from background to make it easier for users to see and hear content.¹²

► Operability

The “operability principle” requires that all users must be able to navigate and interact with digital content effectively.¹³ This means that all functionality of a website should be made available from a keyboard and other input modalities such that users can easily move around, find content, and determine where they are without the need for specific timings, individual keystrokes, or reliance on a mouse.¹⁴ Counties can adhere to this principle by designing websites with effective page titling, logical ordering, descriptive headings, and meaningful labels for important sections.¹⁵ Operability standards are integral for individuals with motor disabilities who rely on keyboard commands, voice recognition software, or assistive devices like eye-tracking systems.

► Understandability

The “understandability principle” focuses on making digital content clear and easy to understand.¹⁶ Individuals with cognitive disabilities, learning disabilities, or limited literacy must be able to understand how to use a website without unnecessary confusion. As such, a website should not require users to decode complex instructions or navigate inconsistent layouts to access services. Websites should use clear, readable text and fonts and provide definitions for complex or higher-level language.¹⁷ They should also contain navigation features and interactive elements designed to be predictable and consistent throughout the website.¹⁸ And when users make errors filling out forms, signing up

for programs or services, or making payments, county websites should provide input guidance and error correction suggestions.¹⁹

► Robustness

The “robustness principle” ensures that digital web content can be interpreted by a wide variety of user agents, including assistive technologies.²⁰ A failure to maintain robust design language can result in digital services that become obsolete for users with disabilities as technology evolves. Counties must ensure that their digital infrastructure is built on widely accepted coding standards and undergoes regular testing to prevent compatibility issues that could disrupt access.²¹

► County compliance

Under the final rule, counties with populations exceeding 50,000 must comply with the WCAG 2.1 by April 24, 2026, while smaller counties have until April 24, 2027.²² Compliance can involve any number of undertakings on the part of a county, depending on the degree of accessibility their web content and mobile apps already demonstrate. The WCAG 2.1 Quick Reference Guide (bit.ly/WCAG21_Guide) provides a useful starting point as well as steps your county can take to help ensure that it meets the rule's requirements.

A good first step is to promote awareness amongst county leadership so relevant decision-makers are aware of the rule and the WCAG 2.1. From there, counties are advised to conduct a digital asset inventory. Many county websites and mobile apps were not originally designed with disability access in mind, resulting in barriers such as images without text descriptions, videos without captions, and navigation structures incompatible with screen readers. Conducting a comprehensive accessibility audit can help your county determine which areas require immediate remediation and which can be addressed through long-term improvements.

Once a county's digital content is well understood, it is prudent to develop an accessibility roadmap of sorts to establish short-term vs. long-term needs, roles,

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responsibilities, and quality assurance processes, with the eventual goal of developing a formal accessibility policy. Once a policy is in place, counties must take concrete steps to integrate accessibility into their digital infrastructure. Updating procurement policies to require third-party vendors to meet WCAG 2.1, Level AA standards is essential, as many counties rely on external IT providers. Equally important is training staff to ensure that IT teams, web developers, and content managers understand accessibility requirements and incorporate them into their daily work. Establishing clear policies and workflows for digital accessibility, such as requiring accessibility reviews before launching new online services, can help maintain long-term compliance and prevent future barriers from arising.

► Exceptions to compliance obligations

The DOJ has set forth five specific exceptions from compliance with the required technical standards, including for 1) archived web content;²³ 2) preexisting conventional electronic documents;²⁴ 3) content posted by a third party;²⁵ 4) conventional electronic documents that are about a specific individual, their property, or their account and that are password-protected or otherwise secured;²⁶ and 5) preexisting social media posts.²⁷

In addition, under the ADA, a county can claim that making certain accommodations would create an “undue burden,” such that compliance with the rule is unreasonable, but they cannot simply cite financial hardship as a reason to delay or avoid compliance.²⁸ Any claim of undue burden must be made by the head of the public entity and substantiated with specific written evidence demonstrating that accessibility modifications would “fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens.”²⁹

► Conclusion

Digital accessibility is not a one-time project but rather an ongoing commitment. Just as physical accessibility requires routine maintenance, digital platforms must be regularly reviewed and updated. Counties should implement periodic testing of their websites and mobile apps as technology

evolves, and are encouraged to work with their corporation counsel to ensure their IT vendors understand the federal regulations and are equipped to ensure compliance.

As enforcement of the DOJ’s rule begins next year, counties must recognize that digital accessibility is not simply a compliance requirement but a necessity in modern governance. For individuals with disabilities, an inaccessible website can mean being unable to apply for benefits, obtain essential public health information, or participate in government meetings. By making digital access a priority, counties can foster a more inclusive civic environment where all residents — regardless of ability — can fully engage with public services. ■

Attolles Law, s.c. works on behalf of Wisconsin counties, school districts and other public entities across the state of Wisconsin. Its president & CEO, Andy Phillips, has served as outside general counsel for the Wisconsin Counties Association for more than 20 years.

NOTE: The following WCAG 2.1 websites link to the recommendations released on June 5, 2018, which are cited in the final rule but have since been updated.

1. 42 U.S.C. § 12101-12213.
2. 42 U.S.C. § 12131-12134.
3. The U.S. DOJ estimates that the total share of people with one or more disabilities is 21.3%. Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities, 89 Fed. Reg. 31320-01 (Apr. 24, 2024).
4. Web and Mobile Accessibility, 28 CFR Part 35 Subpart H (2024).
5. 28 CFR 35.200(a).
6. Id.
7. 28 CFR 35.104 “Mobile applications (“apps”).”
8. See Web Content Accessibility Guidelines 2.1, W3C World Wide Web Consortium Recommendation 05 June 2018 ([bit.ly/WCAG21_Guidelines](https://www.w3.org/TR/2018/REC-WCAG21-20180605/)).
9. Id.
10. See [bit.ly/WCAG21_Perceivable](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#perceivable).
11. See [bit.ly/WCAG21_TextAlternatives](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#textalternatives); [bit.ly/WCAG21_TimeBasedMedia](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#timebasedmedia).
12. See [bit.ly/WCAG21_Adaptable](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#adaptable); [bit.ly/WCAG21_Distinguishable](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#distinguishable).
13. See [bit.ly/WCAG21_Operable](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#operable).
14. See [bit.ly/WCAG21_KeyboardAccessible](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#keyboardaccessible).
15. See [bit.ly/WCAG21_Navigable](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#navigable); [bit.ly/WCAG21_InputModalities](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#inputmodalities).
16. See [bit.ly/WCAG21_Understandable](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#understandable).
17. See [bit.ly/WCAG21_Readable](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#readable).
18. See [bit.ly/WCAG21_Predictable](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#predictable).
19. See [bit.ly/WCAG21_InputAssistance](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#inputassistance).
20. See [bit.ly/WCAG21_Robust](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#robust).
21. See [bit.ly/WCAG21_Compatible](https://www.w3.org/TR/2018/REC-WCAG21-20180605/#compatible).
22. 28 CFR 35.200(b)(1)-(2).
23. Refers to web content: (1) created before or which reproduces paper documents created before the date the public entity is required to comply with the rule, (2) retained exclusively for reference, research, or recordkeeping, (3) is not altered or updated after the date of archiving, or (4) organized and stored in a dedicated area for archived county materials. See 28 CFR 35.104 “Archived web content.”
24. Refers to documents that are available as part of a public entity’s web content or mobile apps before the date the public entity is required to comply with the rule, unless such documents are currently used to apply for, gain access to, or participate in the public entity’s services, programs, or activities. See 28 CFR 35.201(b).
25. Unless the third party is posting due to contractual, licensing or other arrangements with the public entity. See 28 CFR 35.201(c).
26. CFR 35.201(d).
27. CFR 35.201(e).
28. 28 CFR 35.204.
29. Id.