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To: Board of Water Commissions

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The Americans with Disabilities Act (ADA), along with recent court interpretations and Department of Justice (DOJ) guidance, requires public entities to ensure that their digital services are accessible to individuals with disabilities. As of 2022, the DOJ reaffirmed that web content must meet Web Content Accessibility Guidelines (WCAG) standards. The DOJ has proposed a rule under Title II that sets a compliance deadline of 2026 for public entities like Sheboygan Water Utility. Failure to comply may result in civil penalties and legal action.

The Utility is actively working with web developers to evaluate the necessary steps for achieving ADA compliance. For our community size, the compliance deadline is April 2026. The Utility is on track to meet that deadline. More information regarding the requirement can be found on the following pages from [ADA.gov](https://www.ada.gov).

State and local government size	Compliance date
0 to 49,999 persons	April 26, 2027
Special district governments	April 26, 2027
50,000 or more persons	April 24, 2026

**ADA.gov**U.S. Department of Justice
Civil Rights Division

Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments

April 08, 2024

On April 24, 2024, the Federal Register published the Department of Justice's (Department) final rule updating its regulations for Title II of the Americans with Disabilities Act (ADA). The final rule has specific requirements about how to ensure that web content and mobile applications (apps) are accessible to people with disabilities.

Guidance & Resources

Read this to get specific guidance about this topic.

For a beginner-level introduction to a topic, view [Topics](#)

For information about the legal requirements, visit [Law, Regulations & Standards](#)

Purpose of this fact sheet: This fact sheet gives a summary of the rule. The summary is designed to provide introductory information about the rule's requirements, particularly for people who may not have a legal background. [For more information, please read the full rule.](#) The [official version of the rule](#) is published in the Federal Register.



What is Title II of the Americans with Disabilities Act (ADA)?

[Title II of the ADA](#) requires state and local governments to make sure that their services, programs, and activities are accessible to people with disabilities. Title II applies to all services, programs, or activities of state and local governments, from adoption services to zoning regulation. This includes the services, programs, and activities that state and local governments offer online and through mobile apps.



Terms in this fact sheet

Title II uses the term “public entities” to describe who it applies to, but in this fact sheet, we call these “state and local governments.”



What is a rule?

A regulation, also called a “rule,” is a set of requirements issued by a federal agency for laws passed by Congress. When Congress passed the ADA, it gave the Department the authority to make regulations that explain the rights and requirements for Titles II and III of the ADA. A regulation usually

has two parts. The first part is regulatory text. The second part provides information about the regulatory text and what it means, which is sometimes in an appendix in the rule.



How did the Department make this rule?

The Department made this rule using a process sometimes called “notice and comment rulemaking.” As part of this process, the Department published a Notice of Proposed Rulemaking (NPRM). The NPRM was basically a first draft of the regulation. It let the public know about the requirements the Department was considering and gave an opportunity for feedback.

The Department got feedback from the public on the NPRM. Based on that feedback, the Department made changes to certain parts of the rule. A description of the feedback the Department got and how it updated the rule is available in the appendix in the [rule](#).



Who has to follow the web and mobile app accessibility requirements in the rule?

Like the rest of Title II, the rule applies to all state and local governments (which includes any agencies or departments of state or local governments) as well as special purpose districts, Amtrak, and other commuter authorities.

State and local governments that contract with other entities to provide public services for them (like non-profit organizations that run drug treatment programs on behalf of a state agency) also have to make sure that their contractors follow Title II.

Examples of state and local governments include:

- State and local government offices that provide benefits and/or social services, like food assistance, health insurance, or employment services
- Public schools, community colleges, and public universities

- State and local police departments
- State and local courts
- State and local elections offices
- Public hospitals and public healthcare clinics
- Public parks and recreation programs
- Public libraries
- Public transit agencies

For more information about the responsibilities of state and local governments under Title II, [visit our State and Local Governments page](#).

The Reasons the Department Set Specific Requirements for Web and Mobile App Accessibility

State and local governments provide many of their services, programs, and activities through websites and mobile apps. When these websites and mobile apps are not accessible, they can create barriers for people with disabilities.

- For example, individuals who are blind may use a screen reader to deliver visual information on a website or mobile app as speech. A state or local government might post an image on its website that provides information to the public. If the website does not include text describing the image (sometimes called “alternative text” or “alt text”), individuals who are blind and who use screen readers may have no way of knowing what is in the image because a screen reader cannot “read” an image.

Websites and mobile apps that are not accessible can make it difficult or impossible for people with disabilities to access government services, like ordering mail-in ballots or getting tax information, that are quickly and easily available to other members of the public online. Sometimes, inaccessible websites and mobile apps can keep people with disabilities from joining or fully

participating in civic or other community events like town meetings or programs at their child's school.

This rule will help make sure people with disabilities have access to state and local governments' services, programs, and activities available on websites and mobile apps. This rule will also provide state and local governments with more clarity about what they have to do to comply with the ADA.

You can find more information about why the Department made this rule in the section of the [rule](#) called "Need for Department Action."

Highlights of the Requirements in the Rule

The rule's requirements for making web content and mobile apps accessible are highlighted below. The full [rule](#) explains these requirements in more detail.

Requirement: The Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA is the technical standard for state and local governments' web content and mobile apps.

- This rule sets a specific technical standard that state and local governments must follow to meet their existing obligations under Title II of the ADA for web and mobile app accessibility.
- WCAG, [the Web Content Accessibility Guidelines](#), is a set of guidelines that say what is needed for web accessibility, such as requirements for captions for videos. WCAG is developed by the [World Wide Web Consortium](#).
- You can find more information about why the Department picked WCAG 2.1, Level AA as the technical standard for state and local governments' web

content and mobile apps in the rule in the section of the appendix called “Technical Standard—WCAG 2.1 Level AA.”



What is a technical standard?

A technical standard says specifically what is needed for something to be accessible. For example, the existing ADA Standards for Accessible Design are technical standards that say what is needed for a building to be physically accessible under the ADA, such as how wide a door must be or how steep a ramp can be.

Requirement: State and local governments’ web content usually needs to meet WCAG 2.1, Level AA.

- The rule applies to web content that a state or local government provides or makes available. This includes when a state or local government has an arrangement with someone else who provides or makes available web content for them.
 - **Example:** If a county web page lists the addresses and hours of operation for all county parks, that web page must meet WCAG 2.1, Level AA even if a local web design company made the web page and updates it for the county.



What is web content?

“Web content” is defined as the information and experiences available on the web, like text, images, sound, videos, and documents. You can find more information about how the Department defines “web content” in the rule in the section of the appendix called “Section 35.104 Definitions.”

Requirement: State and local governments' mobile apps usually need to meet WCAG 2.1, Level AA

- The rule applies to mobile apps that a state or local government provides or makes available. This includes when a state or local government has an arrangement with someone else who provides or makes available a mobile app for them.
 - **Example:** If a city lets people pay for public parking using a mobile app, that mobile app must meet WCAG 2.1, Level AA even if the app is run by a private company.



What is a mobile app?

Mobile apps are software applications that are downloaded and designed to run on mobile devices like smartphones and tablets. You can find more information about how the Department defines mobile apps in the [rule](#) in the section of the appendix called “Definitions.”



Can state and local governments provide web content or mobile apps that follow a higher standard than WCAG 2.1, Level AA?

Yes, this rule does not stop a state or local government from using designs, methods, or techniques as alternatives to WCAG 2.1, Level AA if the state or local government can prove the alternatives provide the same or more accessibility and usability. The rule refers to this as “equivalent facilitation.” The rule allows this so that state and local governments can have some flexibility, while also making sure that people with disabilities still have equal access to state and local government web content and mobile apps.

- **Example:** There may be new web accessibility standards that are developed in the future, such as WCAG Version 3.0. Under this rule, a state parks department would probably be allowed to create a new mobile app for campground reservations that meets a future standard

if the standard provides the same or more accessibility and usability than WCAG 2.1, Level AA.

Exceptions: In limited situations, some kinds of web content and content in mobile apps do not have to meet WCAG 2.1, Level AA.

- It is important that state and local governments can prioritize so they can choose the most important content — like current or commonly used information — to make accessible to people with disabilities quickly.
- There are limited exceptions for some kinds of content that are not as frequently used or that may be particularly hard for state and local governments to address right away.
- If an exception applies to certain content, it means that content would not have to meet WCAG 2.1, Level AA.
- In the next section, we describe the exceptions and provide examples of how they might apply. We also give examples of when the exceptions would not apply.



What the exceptions do not change

The ADA requires that state and local governments must provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities. So even when web content or content in mobile apps does not have to meet WCAG 2.1, Level AA, a state or local government would likely still need to provide the content to a person with a disability who needs it in a format that is accessible to them.

- Learn more about existing ADA obligations to ensure effective communication.

- Learn more about existing ADA obligations to make reasonable modifications.

Summary of the Exceptions

1. Archived web content

State and local governments' websites often include a lot of content that is not currently used. This information may be outdated, not needed, or repeated somewhere else. Sometimes, this information is archived on the website.

- Web content that meets **all four** of the following points would not need to meet WCAG 2.1, Level AA:
 1. The content was created before the date the state or local government must comply with this rule, or reproduces paper documents or the contents of other physical media (audiotapes, film negatives, and CD-ROMs for example) that were created before the government must comply with this rule, **AND**
 2. The content is kept only for reference, research, or recordkeeping, **AND**
 3. The content is kept in a special area for archived content, **AND**
 4. The content has not been changed since it was archived.
- **Example:** A water quality report from 1998 that a state has stored in an "archive" section of its website and has not updated would probably fall under the exception. The exception would also probably apply to handwritten research notes or photos that go with the 1998 water quality report that the state scans and posts to its website in the archive section.

The exception does not apply unless all four points are present. If any point is missing, the content generally must meet WCAG 2.1, Level AA unless another exception applies.

- **Example:** City council meeting minutes created after the date the city must comply with this rule would **not** fall under the exception even if they are posted in the “archive” section of the city’s website. The meeting minutes would probably have to comply with WCAG 2.1, Level AA, because this content was created after the time the city had to comply with this rule.
- **Example:** A spreadsheet of 2021 COVID-19 statistics posted in the “archive” section of a county health department’s website would probably not fall under the exception if the spreadsheet is later edited and reposted in the archive. The exception would probably **not** apply, and the spreadsheet would probably have to comply with WCAG 2.1, Level AA, because the content was changed after it was first posted in the archive.
- **Example:** A PDF document that includes a current map of a county park that is based on data collected after the county was required to comply with this rule would probably not fall under the exception even if the document is posted in the “archive” section of the county’s website. The PDF provides current information about the park. The exception would probably **not** apply, and the PDF would probably have to comply with WCAG 2.1, Level AA, because the content is not kept only for reference, research, or recordkeeping.

What the exception does not change

The ADA requires that state and local governments have to provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities.

- **Example:** If a person with a hearing disability requests access to a city's video that is archived, one way that the city could provide effective communication to the person is by adding captions to the video and sharing a copy of the captioned video file with the person.

2. Preexisting conventional electronic documents

Some state and local governments have a lot of old documents, like PDFs, on their website. It can sometimes be hard to make these documents meet WCAG 2.1, Level AA.

- Documents that meet **both** of the following points usually do not need to meet WCAG 2.1, Level AA, except in some situations:
 1. The documents are word processing, presentation, PDF, or spreadsheet files; **AND**
 2. They were available on the state or local government's website or mobile app **before** the date the state or local government must comply with this rule.
- **Example:** This exception would probably apply to a PDF flyer for a Thanksgiving Day parade posted on a town's website in 2018, or a Microsoft Word version of a sample ballot for a school board election posted on a school district's website in 2014.

The exception does not apply unless both points are present. Where either point is missing, the document generally needs to meet WCAG 2.1, Level AA.

- **Example:** After the date a town has to comply with the rule, it posts a PowerPoint presentation that will be used in an upcoming town council meeting. The presentation would **not** fall under the exception, and it would probably have to meet WCAG 2.1, Level AA, because it was posted after the rule's compliance date.
- **Example:** After the date a city has to comply with the rule, it updates a Microsoft Word document that was first posted on its website in 2020 to include the city's new contact information. The updated document would **not** qualify for the exception anymore, and it would probably have to meet WCAG 2.1, Level AA.

When the exception does not apply: Documents that are currently being used to apply for, access, or participate in a state or local government's services, programs, or activities do not fall under the exception even if the documents were posted before the date the government has to comply with the rule.

- **Example:** A state posted a PDF version of a business license application on its website in 2020. Members of the public still use that PDF to apply for a business license after the date the state has to comply with the rule. The exception would **not** apply to the application and it would usually need to meet WCAG 2.1, Level AA.

3. Content posted by a third party where the third party is not posting due to contractual, licensing, or other arrangements with a public entity

Third parties sometimes post content on state and local governments' websites or mobile apps. Third parties are members of the public or others who are not controlled by or acting for state or local governments. The state or local government may not be able to change the content third parties post.

- Content that is posted by third parties on a state or local government's website or mobile app would not need to meet WCAG 2.1, Level AA.
 - **Example:** A message that a member of the public posts on a town's online message board would probably fall under the exception.

This exception only applies to content posted by a third party. Content that is not posted by a third party usually needs to meet WCAG 2.1, Level AA. This includes:

1. Third-party content posted by the state or local government.
 - **Example:** Many state or local governments post content on their websites that is developed by an outside technology company, like calendars, scheduling tools, maps, reservations systems, and payment systems. This content would **not** fall under the exception, and it would usually need to meet WCAG 2.1, Level AA, because it is posted by the state or local government.
2. Content posted by a state or local government's contractor or vendor.
 - **Example:** If a state or local government uses a company to design, manage, or update its website, the content the company posts for the government would **not** fall under the exception, and it would usually need to meet WCAG 2.1, Level AA.
3. Tools and platforms that allow third parties to post content.
 - **Example:** If the state or local government has a message board platform on its website, that platform would **not** fall under the exception, and it would usually need to meet WCAG 2.1, Level AA, because the message board was added to the website by the

state or local government. However, the exception would probably apply to posts by third parties on that platform.

What the exception does not change

The ADA requires that state and local governments must provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities.

- **Example:** If a person with a disability is a party to a state court case, and a third-party private law firm in the case submits documents to the state court's website, the court could provide effective communication to the person with a disability by providing the documents to the person in a format that is accessible to them quickly upon request.

4. Individualized documents that are password-protected

State and local governments sometimes use password-protected websites to share documents that are for specific individuals, like a water or tax bill. It might be hard to make all of these documents accessible right away for everyone, and there might not be a person with a disability who needs access to these documents.

- Documents that meet **all three** of the following points do not need to meet WCAG 2.1, Level AA:
 1. The documents are word processing, presentation, PDF, or spreadsheet files, **AND**
 2. The documents are about a specific person, property, or account, **AND**

3. The documents are password-protected or otherwise secured.

- **Example:** A PDF version of a water bill for a person's home that is available in that person's secure account on a city's website would probably fall under the exception. However, the exception does not apply to the city's website itself.

The exception does not apply unless all three points are present. If any point is missing, the content usually must meet WCAG 2.1, Level AA. Here are some examples related to a town water bill:

- **Example:** If a person's water bill is made available for them to view on a password-protected website as HTML content, the exception would **not** apply because the content is not in one of the listed document formats, and the content would usually need to meet WCAG 2.1, Level AA.
- **Example:** If the water company posts a PDF document on a password-protected website about an upcoming rate increase for all customers, the exception would **not** apply, and the document would usually need to meet WCAG 2.1, Level AA, because the document is not about one customer's account.

What the exception does not change

The ADA requires that state and local governments must provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities.

- **Example:** If a person with vision loss asks to access their personal and password-protected PDF town water bill, the town might provide

effective communication to the person by giving them a large print version of the water bill, or a version of the water bill that meets some WCAG criteria, even though the PDF document would meet the exception.

5. Preexisting social media posts

For many state and local governments, making all of their past social media posts accessible may be impossible. There also may be very little use to making these old posts accessible because they were usually intended to provide updates about things happening at the time they were posted in the past.

For these reasons, social media posts made by a state or local government before the date the state or local government must comply with this rule do not need to meet WCAG 2.1, Level AA.

- **Example:** This exception would apply to a 2017 social media post by a city's sanitation department announcing that trash collection would be delayed due to a snowstorm.

What the exception does not change

The ADA requires that state and local governments must provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities.

- **Example:** If an individual who is blind requests access to a picture a city posted on social media in 2023, the city could provide effective communication by providing an alternative text description of the image to the individual.
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If none of the exceptions apply, do state and local governments always have to make web content and content in mobile apps meet WCAG 2.1, Level AA?

Usually, yes. But there are some situations where meeting WCAG 2.1, Level AA is not required:

- Under the ADA rules, state and local governments do not need to take actions that would result in a fundamental alteration or an undue burden. This is also true for this rule. Determining what is a fundamental alteration or undue burden is different from entity to entity and sometimes from one year to the next.
- For more information about fundamental alteration and undue burden, see the [final rule](#) in the section of the appendix called “Section 35.204 Duties” and the [Department’s State and Local Governments page](#).

Other Information About Complying with the Rule

Use of Conforming Alternate Versions

- Sometimes a state or local government tries to have two versions of the same web content or content in a mobile app: one version that is not accessible and another version that is accessible and provides all the same information and features. The second version is called a “conforming alternate version.”

- Usually state and local governments should not have a main web page that is inaccessible and a separate accessible version of the same content, because people with disabilities should get equal access to that content on the same page.
- Under the rule, state and local governments may use conforming alternate versions as an alternative to inaccessible content only in very limited circumstances. State and local governments are allowed to do this only when there is a technical or legal limitation that prevents inaccessible web content or mobile apps from being made accessible.
- For more information about conforming alternate versions and when they are allowed, see the [final rule](#) in the section of the appendix called “Section 35.202 Conforming Alternate Versions.”



What if an individual with a disability still cannot access web content and mobile apps that meet WCAG 2.1, Level AA?

Sometimes an individual with a disability may not be able to access a state or local government’s web content or mobile apps even if they meet WCAG 2.1, Level AA. If this happens, the state or local government is not required to make more changes to its web content or mobile apps that meet the technical requirement, but the government must still satisfy its other obligations under the ADA to provide individuals with disabilities with [effective communication](#), [reasonable modifications](#), and an equal opportunity to participate in or benefit from their services, programs, and activities. The state or local government must figure out on a case-by-case basis how best to meet the needs of the individual with a disability.

- **Example:** If a person’s disability stops them from accessing a county’s mobile app that meets WCAG 2.1, Level AA to buy tickets to the county’s annual fair, the county needs to provide an alternative way for the person to purchase tickets.

What Happens If a State or Local Government Has Failed to Meet WCAG 2.1, Level AA in a Minor Way?

In some limited situations, state and local governments may be able to show that their web content or mobile apps do not meet WCAG Version 2.1, Level AA in a way that is so minor that it would not change a person with a disability's access to the content or mobile app. If the state or local government can show that, then they are not violating the rule.

State and local governments cannot use this part of the rule to avoid trying to meet WCAG 2.1, Level AA. If a state or local government's web content does not fully meet WCAG 2.1, Level AA, there are many things the government would have to prove to show that they did not violate the rule.

- **Example that violates the rule:** A state's online renewal form does not meet WCAG 2.1, Level AA. Because of that, a person with a manual dexterity disability may need to spend a lot more time to renew their professional license online than someone without a disability. This person might also need to get help from someone who does not have a disability, give personal information to someone else, or go through a much harder and frustrating process than someone without a disability. Even if this person with a disability could ultimately renew their license online, the state would violate the rule.
- **Example that meets the rule:** A state's web page with information about a park has text with a color contrast ratio that is 4.45:1. WCAG 2.1, Level AA requires a color contrast ratio of 4.5:1 for this text. It can be hard for some people with vision disabilities to see text on a web page if there is not enough contrast between the color of the text and the background color. But that very small difference in color contrast ratio probably would not change whether most people with vision disabilities could read the text on the website and access the information about the park. If the state can prove the difference in color contrast is so small that it would not make it harder for people with disabilities to access the information about the park, the state would not violate the rule.

For more information, see the [final rule](#) in the section of the appendix called “Section 35.205 Effect of Noncompliance That Has a Minimal Impact on Access.”

How Long State and Local Governments Have to Comply with the Rule

State and local governments must make sure that their web content and mobile apps meet WCAG 2.1, Level AA within two or three years of when the rule was published on April 24, 2024, depending on their population.

You can find more information about why the Department is requiring compliance with this timeline in the [rule](#) in the section of the appendix called “Requirements by Entity Size.”

This table shows how much time a state or local government has to comply with this rule.

State and local government size	Compliance date
0 to 49,999 persons	April 26, 2027
Special district governments	April 26, 2027
50,000 or more persons	April 24, 2026

After this time, state and local governments must continue to make sure their web content and mobile apps meet WCAG 2.1, Level AA.



What is the compliance date for school districts?

A school district is not a special district government. If it is a city school district, it would use the population of the city to know when to comply. If it

is a county school district, it would use the population of the county. If it is an independent school district, it would use the population estimate in the most recent [Small Area Income and Poverty Estimates](#).



How do you know the compliance date for other parts of government, like your city, state, or town police department or library?

To figure out the date, you have to know the population of your state or local government. For most governments, this is a number you can find in the [2020 data from the U.S. Census Bureau](#). For smaller parts of a larger government that do not have a population listed there, like a city police department or a city library, you can look at the population of the larger government they are part of, like the city that runs the police department and library in this example.

You can find more information about how to find the population of your state or local government in the [rule](#) in the section of the appendix called “Section 35.104 Definitions” under the heading “Total Population.”

ADA Information Resources

If you have questions about this rule or the ADA, you can call the Department’s [ADA Information Line](#).

Another source of information is the [ADA National Network](#). The National Network includes ten regional centers that provide ADA technical assistance to businesses, state and local governments, and individuals with disabilities. One toll-free number connects you to the center in your region: 800-949-4232 (Voice and TTY).

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