

WEB ACCESSIBILITY UNDER THE ADA

CHALLENGES TO ILLINOIS LIBRARIES

JULY 31, 2024

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AGENDA

Introduction

Department of Education, OCR Overview

Title II of ADA– New Rule

Expectations and Resolutions

Final tips & takeaways

THE OCR COMPLAINT PROCESS

- Laws enforced by OCR include Title VI of the Civil Rights Act, Title IX, and Title II of the ADA
- OCR will intake a complaint and determine whether it has legal authority to investigate (from the face of the complaint).
- If OCR determines it will investigate, a letter of notification will be issued
- Investigation may involve collection of evidence from both parties and additional sources
 - (OCR holds itself out as “neutral fact finder” at this stage)
- OCR will determine whether there is evidence to support a conclusion that the recipient failed/ did not fail to comply with the law. Letter of Findings will be sent to each party.

PRE-CONCLUSION RESOLUTION

- Many entities choose to settle the complaint PRIOR to the conclusion of an investigation, through facilitated resolution or a resolution agreement
 - Facilitated resolution involves both parties coming to an agreement
 - Resolution agreement involves OCR determining appropriateness of the remedies in a resolution agreement.

TITLE II OF ADA—NEW RULE TIMELINE

March 2022

→ Justice Department issued guidance concerning web access for individuals with disabilities

[Guidance on Web Accessibility and the ADA | ADA.gov](#)

May 2023

→ DOJ and Dept of Ed issued a joint “Dear Colleague Letter” to post-secondary institutions concerning online accessibility

www2.ed.gov/about/offices/list/ocr/docs/postsec-online-access-051923.pdf

April 2024

→ Issuance of New Final Rule (by DOJ)

[Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities \(ada.gov\)](#)

TECHNICAL STANDARD

Applies to both websites and mobile apps

Expressly applies to public libraries

Similar theory to the adoption of standards for building accessibility

- Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA is the technical standard for web content and mobile apps
 - These guidelines say what is needed for web accessibility, such as requirements for captions for videos.
- This technical standard applies to web content that a state or local government provides or makes available, whether maintained in-house or by a third party
- Limited exceptions
 - Archived content—meeting agendas minutes would fit this description if created prior to rule adoption
 - Preexisting content in word processing, presentation, pdf or spreadsheet form
 - Content created or posted by third parties (like comments)
 - Individual, password protected documents (like statements)

COMPLIANCE WITH TECHNICAL STANDARD

- While the text of the new rule allows local governments with population under 50,000 and special district governments 3 years after publication of the final rule (April 8, 2024- April 8, 2027) for compliance, OCR resolution agreements have asked for accelerated compliance
- Upon request from a specific individual, a public entity may have to provide the web or mobile app content to that individual in an accessible format
- Not supposed to result in a fundamental alteration in the nature of a service, program, or activity of the public entity or in undue financial and administrative burdens
- Conforming alternate versions of web and mobile app content is generally disfavored and unavailable as a compliance avenue in most cases to avoid the perception of a segregated approach

EXPECTATIONS/RESOLUTIONS

When OCR has received a complaint about website accessibility, they have offered the following terms in Resolution Agreements.

- ❑ Adopt an Accessibility Standard (WGAC 2.1 Level AA, equivalent or above)
- ❑ Provide Notice on the Library's website describing how people with disabilities can inform the Library of any technology-based barriers to access they have encountered and how they can request access to the underlying Library program, service or activity
- ❑ Conduct an Audit to identify barriers to access to online programs, services, and activities, consisting of taking an inventory and engaging in testing to identify barriers

EXPECTATIONS/RESOLUTIONS CONTINUED

- Engage in Remediation– conform to chosen accessibility standard
- If barrier removal would impose an undue burden or fundamental alteration under title II, the Library will provide alternate measures that, at a minimum, afford a person with a disability the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services, programs, and activities as a person without a disability, with substantially equivalent ease of use
- Vendor should be asked to complete compliance within 6 months, with appropriate interim alternate measures, including prominently posting a way to access the same information using an alternative method.
- RFP should require bidders to commit to remediating barriers
- If alternate measures are employed, OCR will monitor

EXPECTATIONS/RESOLUTIONS CONTINUED AGAIN

- Update testing and remediation protocols
- Develop a plan to maintain accessible features

KEY ACCESSIBILITY PROTOCOLS

- Keyboard access
- Logical reading order
- Skip Links
- Visual focus indicators
- Alternative (Alt) Text
- Links – No “Click here”, “Read More”, “See all” or long web addresses
- Color alone used to distinguish link text or calendar dates
- Color contrast

KEY ACCESSIBILITY PROTOCOLS CONTINUED

- Tables
- Buttons, form controls, and other operable elements
- Heading structure
- Embedded videos or slide carousels: avoid auto-launch, include keyboard command response
- Magnification
- Accessibility review for word docs
- Video captioning/transcription
- Social media posts: appropriate text accompaniment, videos meeting above captioning/transcription standards

FINAL THOUGHTS AND TAKEAWAYS

- Chevron Decision and the upcoming election
- Interplay between this Rule and OMA Requirements
- Perform pro-active audit
- Begin compliance efforts

QUESTIONS??

**THANK
YOU!**

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