



ADA Update: Title II

**Nondiscrimination on the Basis of Disability;
Accessibility of Web Information and Services
of State and Local Government Entities**



Mid-Atlantic ADA Center

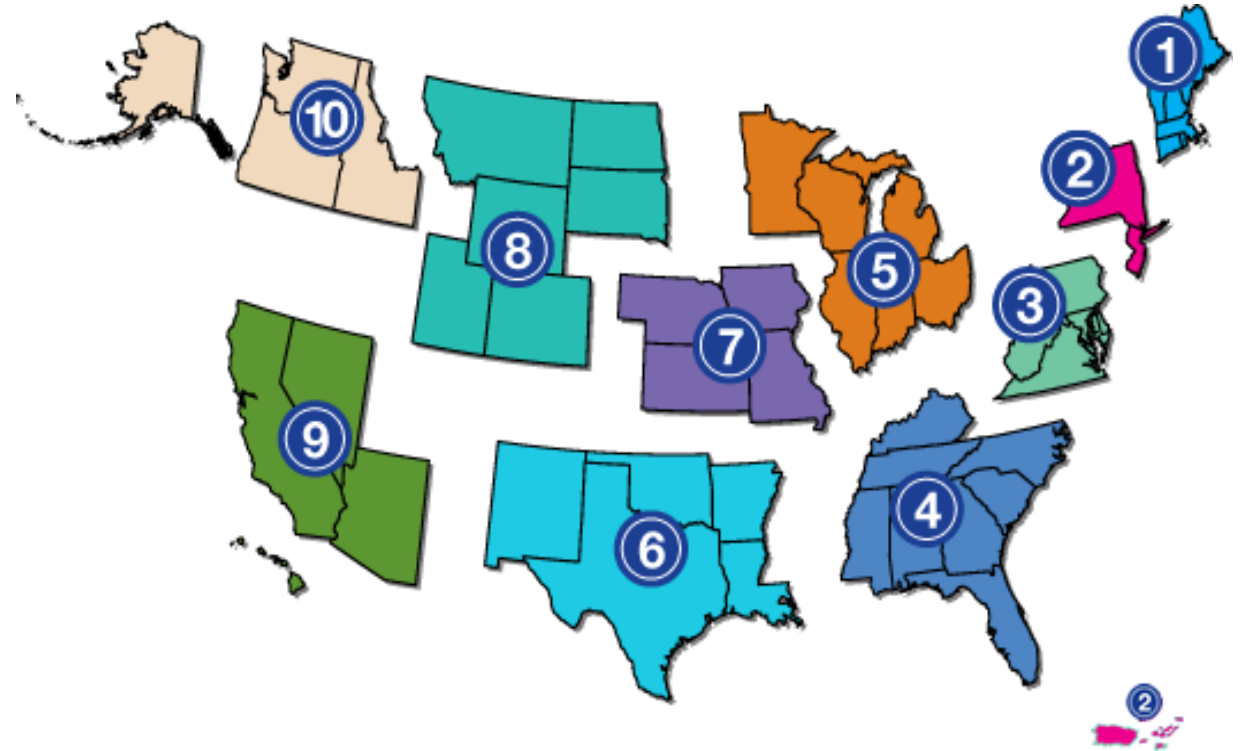
One of ten regional centers

1-800-949-4232

(DC, DE, MD, PA, VA, WV)

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Acknowledgment and Disclaimer



The ADA National Network is funded by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR). NIDILRR is a Center within the Administration for Community Living (ACL), Department of Health and Human Services (HHS). These contents do not necessarily represent the policy of NIDILRR, ACL, or HHS, and you should not assume endorsement by the federal government. The information and/or materials provided are intended solely as informal guidance and should not be construed as legal advice.

Our Agenda: Overview of ADA Title II New Rule on Web Access

- Application
- Compliance dates for covered entities
- Technical standards
 - Exceptions
- Reminder of framework and core concepts of Title II
 - Limitations (fundamental alteration, undue burden)
 - General obligations (effective communication, reasonable modification of policies, practices, procedures)
 - Equity



Basics of the Rule

- Title II of the ADA applies to ***all programs, services, and activities*** of public entities (state and local governments)
 - New rule adds subpart H to Title II regulation, 28 CFR Part 35, to ensure access for people with disabilities to web content and mobile apps made available, directly or through contractual, licensing, or other arrangements

Compliance Dates

State or Local Government	Compliance Date
50,000 or more total population	April 24, 2026
0 – 49,999 total population	April 26, 2027
Special District Government	April 26, 2027

- ❖ *Special district government*: public entity other than a county, municipality, township, or independent school district authorized by state law to provide one or a limited number of functions, with sufficient administrative and fiscal autonomy to qualify as a separate government and whose population is not calculated by the U.S. Census Bureau in the most recent decennial Census or Small Area Income and Poverty Estimates

Definitions Related to Compliance Dates

- *Total population* is based on estimates by the U.S. Census Bureau (USCB):
 - Most recent decennial Census if entity has such population calculation
 - Most recent Small Area Income and Poverty Estimates for independent school districts or instrumentalities of independent school districts
- If entity, other than a special district government or an independent school district, does not have a population estimate calculated by the USCB in the most recent decennial Census, but is an instrumentality or commuter authority of one or more state or local governments that do have such a population estimate, total population is based on the combined estimates for those entities

Technical Standard

- Web Content Accessibility Guidelines (WCAG) 2.1 (2018) Level AA
 - World Wide Web Consortium (W3C), [Web Accessibility Initiative \(WAI\)](#)

Skip to Content | Change Text Size or Colors | All Translations

W3C® Web Accessibility Initiative WAI | Strategies, standards, resources to make the Web accessible to people with disabilities | Get Involved | About W3C WAI | Search

Accessibility Fundamentals | Planning & Policies | Design & Develop | Test & Evaluate | Teach & Advocate | Standards/Guidelines

Making the Web Accessible

Strategies, standards, and supporting resources to help you make the Web more accessible to people with disabilities.

W3C
The World Wide Web Consortium (W3C) develops international standards for the Web: HTML, CSS, and many more.

WAI
The W3C Web Accessibility Initiative (WAI) develops standards and support materials to help you understand and implement accessibility.

You
You can use W3C WAI resources to make your websites, applications, and other digital creations more accessible and usable to everyone.

News

Current Work
(updated monthly)
See [What We're Working On - Accessibility Activities and Publications](#)

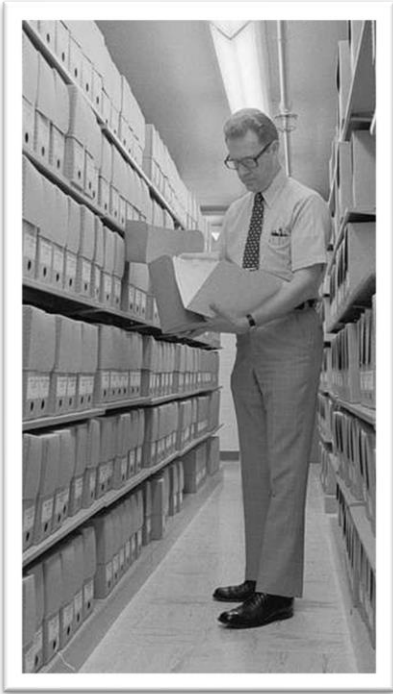
WCAG 3 Working Draft Updated July 2023
(2023-07-24)
The updated [WCAG 3 Working Draft](#) clarifies the maturity of each section, includes new potential approaches to conformance, and lists some guidelines to be developed. Please see more about this work in an [e-mail from the Working Group Chairs](#). To learn more and get up-to-date information, see the [WCAG 3 Introduction](#).

See what we have for you:
Get Resources for...

- [Getting Started](#)
- [Content Writers](#)
- [Designers](#)
- [Developers](#)
- [Evaluators, Testers](#)
- [Managers](#)
- [Policy Makers](#)
- [Trainers, Educators](#)
- [Web Users, People with Disabilities, Advocates](#)
- [Everyone \(All WAI Resources\)](#)
- [Other Languages](#)

- Web content must comply unless compliance would result in:
 - Fundamental alteration in the nature of a service, program, or activity, *or*
 - Undue financial and administrative burdens

Five Exceptions: #1



1) *Archived web content*

Four-part definition:

- a) Created before the date the public entity is required to comply, or reproduces paper documents or the contents of other physical media created before the compliance date, **and**
- b) Retained exclusively for reference, research, or recordkeeping, **and**
- c) Not altered or updated after the date of archiving; **and**
- d) Organized and stored in a dedicated area or areas clearly identified as archives

- **Definition of web content:** information and sensory experience to be communicated to the user, including code or markup that defines the content's structure, presentation, and interactions
 - Examples: text, images, sounds, videos, controls, animations, conventional electronic documents

Five Exceptions: #2

- 2) ***Preexisting conventional electronic documents***, unless such documents are currently used to apply for, gain access to, or participate in the public entity's services, programs, or activities
- ***Definition of conventional electronic documents:*** web content or content in mobile apps in the following electronic file formats: portable document formats ("PDF"), word processor, presentation, and spreadsheet file formats

Five Exceptions: #3 - #5

- 3) ***Content posted by a third party***, unless posted due to contractual, licensing, or other arrangements with the public entity
- 4) ***Individualized conventional electronic documents:***
 - a) About a specific individual, their property, or their account; **and**
 - b) Password-protected or otherwise secured
- 5) ***Preexisting social media posts***

Conforming Alternate Versions of Web Content

- Allowed ***only where it is not possible to make web content directly accessible due to technical or legal limitations***
 - Must be:
 - Comparable to inaccessible content
 - Information and functions available
 - Kept up-to-date
 - Easy to find and access

Remember ...

“The Department emphasizes that, even if certain content does not have to conform to the technical standard, public entities still need to ensure that their services, programs, and activities offered using web content and mobile apps are accessible to individuals with disabilities on a case-by-case basis in accordance with their existing obligations under title II of the ADA. These obligations include making reasonable modifications to avoid discrimination on the basis of disability, ensuring that communications with people with disabilities are as effective as communications with people without disabilities, and providing people with disabilities an equal opportunity to participate in or benefit from the entity’s services, programs, and activities.”

- Guidance and Section-by-Section Analysis of the ADA Title II Web and Mobile Accessibility Rule

ADA National Network

Ten regional centers provide guidance, training, and materials on the ADA

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