

ADA Title II: Considerations for Libraries

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In a Nutshell

- Title II of ADA now mandates web accessibility for state and local government entities
 - Expectation that all online content and mobile apps will be accessible by default
- New rule establishes specific requirements and technical standards for accessibility
- Compliance dates based on population size to ensure gradual implementation
 - 2 years for populations of 50,000 or more, 3 years for populations less than 50,000
 - Libraries should use [total population](#) to determine compliance date
- Rule takes effect Jun 24, 2024. Compliance is 2 or three years from publication of rule (April)



Keep in Mind

- New requirements do not supplant existing Title II requirements
- All services, programs, and activities must be readily usable and accessible
- Disparity in educational and economic attainment is still too great
- Purpose is to remove need for persons with disabilities to ask for access to accessible online programs, services, and activities
- Accessibility is not accommodation!



Targeting Online Content

- “It is critical to ensure that individuals with disabilities can access important web content and mobile apps quickly, easily, independently, privately, and equally.”

-- ADA Title II Final Rule

- **Important:** Web content is defined in a way that includes digital content not distributed or interacted with via a web browser



Readily Usable and Accessible (1 of 2)

- In general, web content, mobile apps, and electronic documents must be “readily useable and accessible” by those with disabilities
- Applies to anything that an entity “provides or makes available, directly or through contractual, licensing, or other arrangements”
- Must ensure content is accessible on an ongoing basis
- Only use conforming alternate versions unless original cannot be made accessible due to technical or legal limitations
 - Lack of knowledge of how to make material accessible is not a limitation!



Readily Usable and Accessible (2 of 2)

- No differentiation between new content and preexisting content that is used to access programs, services, and activities
- Entity is responsible for accessibility even when using third parties and third-party content
- Electronic communication must be as effective for those with disabilities as it is for those without



Exceptions



Limited and Specific

- Exceptions are limited and specifically defined
- All defined conditions must be met
- Do not apply if content is made available to apply for, gain access to, or participate in services, programs, and activities
- Excepted content must be made accessible upon request
- Fundamental alteration and undue burden still applies



Five Exceptions

- Archived web content
- Preexisting documents
- Third-Party content
- Documents for specific individuals
- Preexisting social media posts



Archived Web Content

- Four requirements:
 - Created before the compliance date
 - Retained exclusively for reference, research, or recordkeeping
 - Not altered or updated after date of archiving
 - Organized and stored in a dedicated area and is clearly identified as archived



Preexisting Documents

- Must be created before the compliance date and not updated.
- Defined document formats (exhaustive list):
 - PDFs
 - Word processor file formats
 - Presentation file formats
 - Spreadsheet file formats

Content Posted by a Third Party

- Exception applies if:
 - Third-party is unaffiliated
 - Not provided due to contractual, licensing, or other arrangements
 - Not posted by the public entity even if originally created by a third party
- Also applies to linked third-party content if above conditions are met
- Does not apply to authoring tools or embedded content provided by the public entity



Documents for Specific Individuals

- Document must be about a specific individual, their property, or their account
- Must be password protected or otherwise secured
- Time-sensitive information should be considered through the lens of effective communication for persons with disabilities
- Entities must not require an individual to make subsequent requests for future accessible documents
 - Ex. Periodic billing statements



Preexisting Social Media Posts

- Posts made before compliance date are excepted
 - Posts after compliance date must meet requirements
- Ongoing posts must utilize all accessibility features of the social media platform



Noncompliance That Would Not Affect Access

- Limited to technical noncompliance with no adverse affect
- Timeliness, privacy, independence, and ease of use are all important considerations

Library Specifics



No Special Treatment

- DOJ believes libraries should be treated the same as other public entities
- Some public libraries will count as small entities
 - County constituents rather than state-level
- Digital materials used to gain access to services, programs, or activities must be accessible by default
 - DOJ expects collective pressure to force publishers to create accessible content
- Software used to search for materials must be accessible
 - Also true for account management software (pay fines, etc.)



Materials Not In Circulation

- Digital materials not in circulation count as preexisting conventional documents or archived materials
- Must be made accessible upon request
 - Conforming alternative version may be used if needed
- Libraries are reminded of fundamental alteration and undue burden
 - Must do everything to make accessible up to triggering condition





Recommendations



Digital Inclusion Coordinator

- Create a digital inclusion coordinator position
 - Could add to existing accessibility coordinator position but prioritize duties
- Responsible for monitoring accessibility of online services and digital materials
- May be prudent to create an inclusion team
- Should have or gain functional awareness of Web Content Accessibility Guidelines (WCAG) 2.1
- Should understand how common assistive technologies work with online and digital information



Culture of Inclusion

- Proactively monitor accessibility of services
- Gather feedback
- Normalize accessibility – It's part of doing business, not a special consideration
- Gather feedback – What you learn may surprise you
- Create a page on your website that notifies patrons of services and equipment available for use
- You don't need a big budget to be inclusive and accessible!



Website and Self-Service

- Online services must be readily and usably accessible
 - Websites
 - Billing software
 - Checkout kiosks
- Important: Do not use accessibility overlays to make your site accessible!
 - At best, they don't help; at worst, they harm accessibility
 - Use of overlays have led to lawsuits
 - See the [Overlay Fact Sheet](#) and Lainey Feingold's [Overlay Legal Update](#)
- Install screen reader and other assistive technologies on patron computers



Digital Collections

- Talk to your vendors about new regulations
 - Emphasize expectation for libraries to use only accessible materials
- Add requirement for accessibility into licensing contracts
- Leverage consortia pressure
- Document what you've done to pressure publishers
- Ensure software to checkout and read digital materials is accessible, especially for screen reader and text-to-speech software



Training

- The DOJ recognizes the need for training
- [Project Enable](#) – Syracuse University
- Big Ten Academic Alliance (BTAA) [Library Accessibility Alliance](#)
- [Deque University](#) offers online digital accessibility training (not free)
- [International Association of Accessibility Professionals \(IAAP\)](#) (not free)
 - Offer certification and training



Learn More

- [ADA Title II](#)
- [ADA Title II Fact Sheet](#)
- [ADA Title II: Other Issues Pertaining to Public Libraries](#)
- [Federal Rule Impact Analysis \(FRIA\)](#)
- [Web Content Accessibility Guidelines \(WCAG\) 2.1](#)
 - Level A and AA Success Criteria are required
- [Overlay Fact Sheet](#)
- [Beyond ADA Compliance](#)



Web Accessibility Tools

- Be aware that automated tools can only detect half of issues
 - Most impactful issues require manual checks (keyboard support, etc.)
- Free page scanning tools:
 - [WebAIM Wave](#)
 - [AInspector for Firefox](#)
 - [ANDI Accessibility Testing Tool](#)
 - [Deque Axe DevTools](#)
- Avoid web scanning tools offered by other companies that offer evaluation services



Thank you!



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