

# ADA Compliant Websites: what cities need to know

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# ADA Compliant Websites: what cities need to know



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&  
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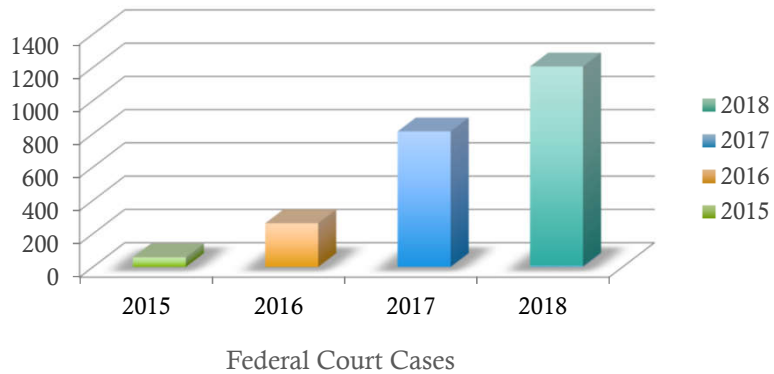
# Intro

“The power of the Web is it’s universality. Access by everyone regardless of disability is an essential aspect.”

◆ -Tim Berners-Lee, W3 Director and inventor of the World Wide Web

# Rise of Web Accessibility Lawsuits

ADA Web Litigation



## The ADA

- ◆ Title II of the ADA mandates that no qualified individual with a disability shall, on the basis of disability, be excluded from full and equal participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. (42 U.S.C. § 12132)
- ◆ As public entities, cities **must not**:
  - i) deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
  - ...
  - vii) otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.
 (28 C.F.R. 35.130)

## The Rehabilitation Act

- ◆ Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 requires that no otherwise qualified individual with a disability, on the basis of that disability, be excluded from participation in or be denied the benefit of the services, programs, activities, or to otherwise be discriminated against.
- ◆ The Rehabilitation Act defines "program or activity" to mean all of the operations of a department, agency, special purpose district, or other instrumentality of a state or local government.

## DOJ Withdraws Four Rules

28 CFR Parts 35 and 36 (CRT Docket No. 138) – *excerpt below*

- ◆ The Department is evaluating whether promulgating regulations about the accessibility of Web information and services is necessary and appropriate. Such an evaluation will be informed by additional review of data and further analysis. The Department will continue to assess whether specific technical standards are necessary and appropriate to assist covered entities with complying with the ADA. Accordingly, the Department is **withdrawing** the two previously announced ANPRMs related to the accessibility of Web information and services, "Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations" (RIN 1190-AA61) (75 FR 43460), and "Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government" (RIN1190-AA65) (81 FR 28658).

## DOJ Withdraws Four Rules (Cont.)

28 CFR Parts 35 and 36 (CRT Docket No. 138) – *excerpt below*

- ◆ In consideration of the foregoing, the Department announces the withdrawal of the four above-named ANPRMs. Such ANPRMs had no force or effect of law, and no party should rely upon them as presenting the Department of Justice's position on these issues.

# Letter from Congress

Congress of the United States  
House of Representatives  
Washington, DC 20515-3313

June 20, 2018

The Honorable Jeff Sessions Attorney General  
of the United States  
U.S. Department of Justice 950  
Pennsylvania Ave NW Washington,  
DC 20530-0001

Dear Attorney General Sessions:

Thank you for your service to our country. We write today to express support for the Department of Justice providing guidance and clarity with regard to website accessibility under the Americans with Disabilities Act or ADA.

Although there have been several recent court decisions on the application of the ADA, the statutory authority for applying the ADA to websites is unclear. However, businesses of every shape and size throughout the country are being threatened with legal action by private plaintiffs for unsubstantiated violations of the ADA. This problem is expanding at a rapid rate since the Internet allows such actions to be filed from anywhere, and there are no restrictions or limitations on making such complaints. The absence of statutory, regulatory, or other controlling language on this issue only fuels the proliferation of these suits since there are no requirements these complaints have to meet. In fact, in most cases these suits are filed for the purpose of reaching a financial settlement and do little or nothing to improve website accessibility. We support the original spirit and intent of the ADA. However, unresolved questions about the applicability of the ADA to websites as well as the Department's abandonment of the effort to write a rule defining website accessibility standards, has created a liability hazard that directly affects businesses in our states and the consumers they serve.

It is critically important for the Department to take steps now to state publicly the public legal action under the ADA with respect to websites to inform and warn businesses about potential pitfalls in the absence of clear statutory authority and issuance by the Department of a final rule establishing website accessibility standards. We agree with the U.S. District Court for the Central

In the Central District of California, the U.S. District Court for the Central District of California, in *Ed Kruse v. Ed Kruse*, 2017 WL 3074957 (C.D. Cal. 10/11/17), and in the U.S. District Court for the District of Columbia, in *Ed Kruse v. Ed Kruse*, 2017 WL 3074957 (D.C. 10/11/17), and in the U.S. District Court for the District of Columbia, in *Ed Kruse v. Ed Kruse*, 2017 WL 3074957 (D.C. 10/11/17).

District of California in *Dowson's Pizza v. Anheuser* which held that "improving on all regulated persons and entities a requirement that they 'comply' with the WCAG 2.0 Guidelines" without specifying particular level of success criteria and without the DOJ offering meaningful guidance on this topic... files in the face of that process." Further, as it dismissed the ADA complaint, the court said:

The Court concludes by calling on Congress, the Attorney General, and the Department of Justice to take action to set minimum web accessibility standards for the benefit of the disabled community... those subject to Title III. 404 the judiciary."

It is important for Congress to act to provide greater clarity through the legislative process. However, in the meantime, it is also unfair and disruptive to subject businesses to litigation risk caused by insufficiently specific statutory language or even basic direction on compliance from the Department. We respectfully urge you to help resolve this situation as soon as possible.

Thank you again for your service to this nation and we look forward to your response.

Sincerely,

*Ted Budd* *J. Luis Correa* *Don Young*  
Member of Congress Member of Congress Member of Congress

*Ed Kruse* *Samuel D. Bishop, Jr.* *Ken Calvert*  
Member of Congress Member of Congress Member of Congress

# DOJ Response



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 25 2018

The Honorable Ted Budd  
U.S. House of Representatives  
Washington DC 20515-0001

Dear Congressman Budd:

This responds to your letter dated June 20, 2018, regarding website accessibility for public accommodations under the Americans with Disabilities Act (ADA). We apologize for our delay in responding your letter.

As you may know, on December 26, 2017, the Department of Justice (the Department) published a Notice of Withdrawal of Four Previously Announced Rulemaking Actions in the Federal Register, 82 Fed. Reg. 69932 (Dec. 26, 2017). Two of the withdrawn rulemakings were related to the accessibility of web information and services under the ADA. The first withdrawn rulemaking (RIN 1190-AA61) covered accessibility of web information and services of public accommodations. The second withdrawn rulemaking (RIN 1190-AA65) covered accessibility of web services of state and local governments.

As indicated in the Notice of Withdrawal, the Department is evaluating whether promulgating specific web accessibility standards through regulation is necessary and appropriate to ensure compliance with the ADA. The Department will also continue to review its entire regulatory landscape and associated agenda, pursuant to the regulatory reform provisions of Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs" and Executive Order 13777, "Enforcing the Regulatory Reform Agenda."

The Department first articulated its interpretation that the ADA applies to public accommodations' websites over 20 years ago. This interpretation is consistent with the ADA's title III requirement that the goods, services, privileges, or activities provided by places of public accommodation be equally accessible to people with disabilities.

The Honorable Ted Budd  
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Additionally, the Department has consistently taken the position that the absence of a specific regulation does not serve as a basis for noncompliance with a statute's requirements. Absent the adoption of specific technical requirements for websites through rulemaking, public accommodations have flexibility in how to comply with the ADA's general requirements of nondiscrimination and effective communication. Accordingly, noncompliance with a voluntary technical standard for website accessibility does not necessarily indicate noncompliance with the ADA.

We very much appreciate the concerns regarding the impact that the risk of litigation has on covered entities. The Department remains committed to safeguarding accessibility for individuals with disabilities while also working with covered entities to ensure that compliance with the ADA is feasible and sustainable. Given Congress' ability to provide greater clarity through the legislative process, we look forward to working with you to continue these efforts.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

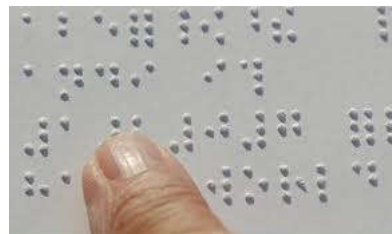
Sincerely,

*Stephen E. Boyd*  
Stephen E. Boyd  
Assistant Attorney General



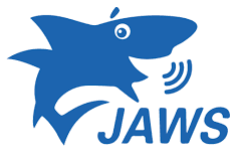
## Is Web Accessibility Even Important?

- ◆ 40 million total disabled people in the U.S.
- ◆ 7.3 million people are blind.
- ◆ 28 C.F.R. section 36.303.



# Accessibility For The Blind (Screen Readers)

- ▲ What is a screen reader?



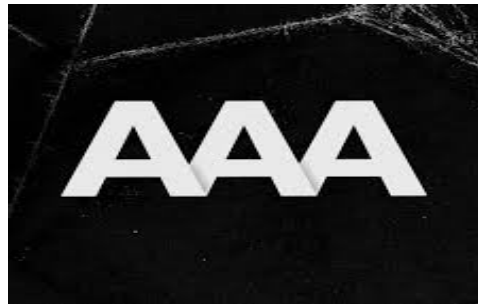
# Four Principles of Accessibility

- ◆ Perceivable
- ◆ Operable
- ◆ Understandable
- ◆ Robust



## Three Levels of Accessibility Compliance

- ◆ Level A
- ◆ Level AA
- ◆ Level AAA



## 4 Step Model For Addressing Web Accessibility

- ◆ I. \*Accessibility Statement!!!!
- ◆ II. Manual Testing
- ◆ III. Automated Testing
- ◆ IV. Culture of Accessibility/Checklists



# I. Accessibility Statement

- ◆ Broken into three parts:
  - 1) Accessibility Policy
  - 2) Contact Information
  - 3) Best Practice: Feedback Mechanism

# Accessibility Policy

- ◆ What is it?
- ◆ What should it state?
- ◆ What level of accessibility compliance?

## Contact Information

- ◆ Most important!
- ◆ Effective communication.
- ◆ What does the drive by plaintiff see?

## Best Practice: Feedback Mechanism

- ◆ Optional, but useful.
- ◆ Encourages feedback from users.

## II. Manual Testing

- ◆ Performed by a third party. ([www.cryptzone.com](http://www.cryptzone.com))
- ◆ Use a variety of testers.
- ◆ Identify most visited pages, templates and user scenarios.
- ◆ Max 50 pages reviewed.
- ◆ WCAG 2.0 A/AA standards

## III. Automated Testing

- ◆ Very large websites.
- ◆ One client/47 Issues.
- ◆ 4 Key Issues:
  - Missing alt text for images
  - Missing alt text in image maps
  - Improper date table markups
  - Missing label in form.

## Culture of Accessibility/Checklist

- ◆ WCAG requirements  
<https://www.w3.org/TR/WCAG20/>.

◆ Design → Copy → Development

Creating A Website That  
Is Screen Writer  
Compatible



## Use Headings

- ◆ Correctly organizes content structure.
- ◆ Use <h1>, <h2>, etc.
- ◆ Chronological order.

## “ALT” Text

- ◆ What’s the purpose?
- ◆ What should alt text contain?
- ◆ Exceptions.
- ◆ Ex:
  - ◆ `<img src = “image-location” alt = “image description”>`

## Give Links Unique & Descriptive Names

- ◆ Descriptive Text.
- ◆ Unique content first.
- ◆ Example: Regarding an **About Us** link:
  - ◆ NO: “**Click here** to read about our company”
  - ◆ YES: “To learn more about our company, read **About Us**”

## Forms

- ◆ Labeled correctly.
- ◆ Descriptive label.
- ◆ Logical Tab order.
- ◆ Required (\*) v. Optional fields.

## FORMS (cont.)

- ◆ Form submission confirmation.
- ◆ CAPTCHA validation.

## Keyboard Friendly

- ◆ Must work without a mouse!!!
- ◆ Tab key navigation.





## PDFs & Screen Reader



## Characteristics of an Accessible PDF

- ◆ Logical structure and reading order.
- ◆ Alternate “alt” text descriptions for figures, form fields and links.
- ◆ Navigational aids.
- ◆ Security that doesn’t interfere with assistive technology.
- ◆ Fonts that allow characters to be extracted to text.

## 1. Logical Structure & Reading Order

- ◆ Utilize tags.
- ◆ How do tags help screen readers?

## 2. Alt Text

- ◆ Already discussed.
- ◆ Screen reader software will interpret alt text descriptions and read.

### 3. Navigational Aids

- ◆ Optimized tab order.
- ◆ What is the purpose of a navigational aids?

### 4. Security That Doesn't Interfere With Assistive Technology

- ◆ Limit restrictions!!!



## 5. Fonts That Allow Characters to be Extracted to Text

- ◆ Enough information for Adobe Reader to extract.
- ◆ Effect of insufficient information.

## PDF Accessibility Assistant

- ◆ What is the Accessibility Assistant?
- ◆ How do you reach the Accessibility Assistant?
  - ◆ Click “Document”>”Accessibility”>”Setup Assistant
  - OR
  - ◆ Press, “ALT” + “D” then “T”

## Image Only PDF Files

- ◆ Created when a user scans a paper document, producing only an image.
- ◆ Optical Character Recognition (OCR) conversion.

## 5 OCR Steps

- ◆ 1) Open the scanned document that you'd like to OCR.
- ◆ 2) Click the blue **Tools** button in the top right of the toolbar.
- ◆ 3) In the sidebar click the **Recognize Text** tab.
- ◆ 4) Click the **In This File** button.
- ◆ 5) Click **OK**, and the file will be recognized.

# Closed Captioning



## How to Create Captions

- ◆ 1) Create a text (.txt) file.
- ◆ 2) Open your video in a caption editing program.
- ◆ 3) Insert your script into the editor piece-by-piece.
- ◆ 4) When speakers change type ">>".

## Doing Captioning Right

- ◆ Islamorada, Florida  
[http://www.islamorada.fl.us/departments/village\\_clerk/re\\_solutions.php](http://www.islamorada.fl.us/departments/village_clerk/re_solutions.php)
- ◆ What did they do?

## Islamorada, Florida

- ◆ “All Village Council meeting videos posted on our website after January 1, 2017, will be captioned. **Other videos posted online will be described, and agendas of meetings will be posted.** We will caption or transcribe these videos, upon request, free of charge, and will provide the requested material within 3-5 business days of receiving the request.”



