
LEGAL BACKGROUND BRIEFING

Legal Services Division

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PUBLIC ENTITY WEB CONTENT AND MOBILE APPLICATIONS — ADA

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PUBLIC ENTITY WEB CONTENT AND MOBILE APPLICATIONS — ADA

Overview

This background briefing relates to federal Department of Justice (DOJ) Order No. 5919-2024 (Order) and the requirements the Order imposes on Internet sites and mobile applications (apps) owned or operated by Iowa's public entities. References to the Iowa Code are to the 2026 Code unless otherwise stated.

Background

The DOJ recognized that state and local governments provide many services, programs, and activities through Internet sites and apps, and that if the Internet sites and apps are not accessible, then persons with disabilities would have barriers to several services that would allow them to participate in civics such as casting a mail-in ballot, obtaining tax information, or joining a community event.¹

To create a minimum standard of accessibility for state and local government Internet sites and apps, on April 24, 2024, the Federal Register published the DOJ's final rule updating its regulations for Title II of the Americans with Disabilities Act (ADA).² The final rule requires each public entity to maintain a minimum level of accessibility on each Internet site and mobile app under the control of the public entity that is in compliance with the Web Content Accessibility Guidelines (WCAG) 2.1 level AA, as published and recommended by the World Wide Web Consortium on June 5, 2018.³ However, if designs, methods, or techniques evolve in a way that would allow for accessibility which is equivalent to or greater than the accessibility provided by WCAG 2.1 level AA standards, then public entities may implement those designs, methods, or techniques.⁴

Applicability and Timelines

The Order applies to public entities. A “public entity” is defined as any of the following:⁵

- A state or local government.
- A department, agency, special purpose district, or other instrumentality of a state, multiple states, or local government.
- The National Railroad Passenger Corporation and any commuter authority as defined in section 103(8) of the Rail Passenger Service Act.

The DOJ has interpreted “public entity” to include all of the following:⁶

- Government offices that provide benefits and/or social services, such as food assistance, health insurance, or employment services.
- Public schools, community colleges, and public universities.
- Police departments.
- Courts.
- Elections offices.
- Public hospitals and public health care clinics.
- Public parks and recreation programs.
- Public libraries.
- Public transit agencies.
- Special district governments (e.g. utility districts, water and sewer boards, and zoning districts).⁷

1. 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*, www.ada.gov/resources/2024-03-08-web-rule (last visited June 2, 2026).

2. Id.

3. See generally U.S. Department of Justice, Order No. 5919-2024, pp. 50-52.

4. U.S. Department of Justice, Order No. 5919-2024, p. 55.

5. 28 C.F.R. §35.104.

6. 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*, www.ada.gov/resources/2024-03-08-web-rule (last visited June 2, 2026).

7. U.S. Department of Justice, Order No. 5919-2024, p. 53; Id. at 72.



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The implementation of the Order is staggered based on a public entity's population. A public entity with a population of 50,000 or more that is not a special district government (large entity) originally had a compliance deadline of April 24, 2026, and a special district government or a public entity with a population under 50,000 (small entity) originally had a compliance deadline of April 26, 2027.⁸ On April 20, 2026, the DOJ issued an interim final rule that moved the compliance deadlines so large entities now have a compliance deadline of April 26, 2027, and special district governments and small entities have a compliance deadline of April 26, 2028.⁹ The notice and comment period for the interim final rule concluded on June 22, 2026.¹⁰ The interim final rule is subject to change until the rule is officially adopted; however, the DOJ has made the interim final rule effective immediately.¹¹

Content Governed

With some exceptions, the Order requires all web content and each app a public entity provides or makes available to comply with WCAG 2.1 level AA standards. "Web content" means the information and sensory experience to be communicated to the user by means of a user agent, including code or markup that defines the content's structure, presentation, and interactions. Examples of web content include text, images, sounds, videos, controls, animations, and conventional electronic documents.¹² This means that not only will public-facing web pages and apps be required to comply with the Order, but internal portals, intranets, and postings to third-party websites will need to comply as well.

A. Exceptions

There are five types of content that are excepted from the Order¹³ and a general exception if compliance would fundamentally alter a public entity's service, program, or activity or result in undue financial and administrative burden.¹⁴ The five excepted types of content are:

1. Archived web content
2. Preexisting conventional electronic documents (PCED)
3. Content posted by a third party
4. Individualized, password-protected documents (IPPD)
5. Preexisting social media posts

However, public entities should be aware that, although these are legitimate exceptions from the Order, existing ADA obligations impose an affirmative duty on public entities to ensure equal opportunity and effective communication of the exempted content.¹⁵

B. Archived Web Content

Content must meet four requirements to be considered archived web content.¹⁶ The first requirement is that the content must have been created before the date the public entity is required to comply with the Order, the content reproduces paper documents created before the date the public entity is required to comply with the Order, or the content reproduces other physical media created before the date the public entity is required to comply with the Order.¹⁷

8. U.S. Department of Justice, Order No. 5919-2024, p. 1.

9. U.S. Department of Justice, Order No. 6742-2026.

10. *Id.*

11. 5 U.S.C. §553(d) (rules can be effective sooner than 30 days for good cause); Office of the Federal Registrar, *A Guide to the Rulemaking Process*, p.9 (interim final rules are effective upon publication).

12. U.S. Department of Justice, Order No. 5919-2024, p. 52.

13. *Id.* at 54.

14. *Id.* at 54-56.

15. Jessie Weber, *Eight key takeaways from the DOJ's new Web and Mobile Accessibility Rule for Public Entities*, (April 15, 2025), browngold.com/blog/eight-key-takeaways-from-the-doj-s-new-web-and-mobile-accessibility-rule-for-public-entities, (last visited June 4, 2026).

16. U.S. Department of Justice, Order No. 5919-2024, pp. 50-51.

17. *Id.*



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The second requirement is that the content must be retained exclusively for reference, research, or recordkeeping purposes.¹⁸ Whether web content is retained exclusively for reference, research, or recordkeeping will depend on the facts of each particular situation; however, content that identifies current policies and procedures, content containing or interpreting applicable laws or regulations, and content containing other information that notifies a user of currently applicable services or ongoing rights and responsibilities are unlikely to be considered archived web content.¹⁹

The third requirement is that the content must not be altered or updated after the date the content is archived.²⁰

The fourth requirement is that the content is organized and stored in a dedicated area or areas clearly identified as being archived.²¹ The DOJ did not specify how a public entity must organize, identify, label, or partition an area of a website for the purpose of designating that area as archived, but the DOJ stated that public entities should store archived web content in a manner that would result in allowing a disabled user to predict with a high degree of reliability that the area contains content that does not conform with WCAG 2.1 level AA standards.²²

C. Preexisting Conventional Electronic Documents

To qualify for an exemption as a PCED, the content must be a conventional electronic document that was available on the public entity's Internet site or app prior to the date the public entity was required to comply with the Order.²³ A conventional electronic document means web content or content in an app that is in one of the following electronic file formats: portable document formats (PDF), a word processor file format, a presentation file format, or a spreadsheet format.²⁴ There is an exhaustive list of file formats that may qualify as a PCED, but other notable file types for audio, video, and images are not exempt from the Order unless they qualify under a different exception.

D. Content Posted by a Third Party

To be exempt as content posted by a third party, the public entity must have no contractual, licensing, or other arrangement with the third party posting the content that would direct or require the third party to post the content.²⁵

E. Individualized, Password-Protected Documents

To qualify for an exemption as an IPPD, content must be about a specific individual, a specific individual's property, or a specific individual's account and must be password-protected or otherwise secured.²⁶ An example would include patient test results at a public hospital that are only accessible after entering a password on an Internet site or app.²⁷ This exception is limited to conventional electronic documents, so while the test results in the previous example would be exempt from the Order as an IPPD, any buttons, images, text, or video on the public hospital's web page that the user experiences prior to navigating to the document would still need to comply with the Order.²⁸

F. Preexisting Social Media Posts

All content posted to or made available by a public entity, including through contractual, licensing, or other arrangements with a third party, on a social media site is exempt from the Order provided that the content is posted prior to the date the public entity is required to comply with the Order.²⁹

18. Id.
19. Id. at 63-64.
20. Id. at 50.
21. Id. at 51.
22. Id. at 63-64.
23. Id. at 54.
24. Id. at 51.
25. Id. at 84-87.
26. Id. at 54.
27. Id. at 218.
28. Id. at 219-220.
29. Id. at 54.



G. Fundamental Alteration and Undue Financial and Administrative Burden

If maintaining WCAG 2.1 level AA standards would result in a fundamental alteration of a public entity's service, program, or activity or cause an undue financial and administrative burden, then the public entity is only required to maintain compliance with the Order to the extent that the service, program, or activity is not fundamentally altered or unduly burdened.³⁰ To qualify under this exception, the head of a public entity must consider all resources available and create a written document that lists the reasons why compliance would result in fundamental alteration or undue financial and administrative burden.³¹

In situations where a public entity cannot meet WCAG 2.1 level AA standards due to technical or legal limitations, the Order allows a public entity to create an alternate version of a primary web page.³²

In situations where a public entity has not met WCAG 2.1 level AA standards, but the public entity is able to show a person with disabilities is able to access, engage, transact, and participate in the same way that a person without disabilities is able, then the DOJ will deem the public entity to be in compliance with the Order.³³

Consequences of Noncompliance

A public entity that fails to comply with the Order risks exposure to private lawsuits, DOJ enforcement action, and financial consequences.

42 U.S.C. §12133 grants individuals with a disability the right to sue public entities for discriminatory digital exclusion. Remedies include injunctive relief as well as reasonable attorney fees, litigation expenses, and court costs.³⁴

The DOJ monitors compliance and processes complaints filed by the public.³⁵ If, following an investigation into a complaint the DOJ believes the complaint to be founded, the DOJ will send a letter of findings to the public entity that details violations and, possibly, sets a deadline for the public entity to achieve compliance.³⁶ In more severe cases, the DOJ will require a public entity to enter into a settlement agreement or consent decree that will bind the public entity into an extended period of federal oversight. If the DOJ files or intervenes in a civil suit to enforce compliance, courts can award compensatory damages to aggrieved individuals and assess civil penalties against the noncompliant public entity to vindicate public interest.³⁷

Public entities receiving federal grants also risk the suspension or termination of federal funding if the public entity systemically fails to comply with the Order.³⁸

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30. Id. at 55-56.

31. Id. at 56.

32. Id. at 55.

33. Id. at 56.

34. 42 U.S.C. §12205.

35. 28 C.F.R. §35.172.

36. Id.

37. 42 U.S.C. §12133; 28 C.F.R. §35.174.

38. 29 U.S.C. §794; 42 U.S.C. §2000d-1.