

Federal Accessibility Standard Proposed for Municipal Web Content

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Municipalities may have new standards for compliance with the Americans with Disabilities Act (ADA) as soon as 2024. The US Department of Justice (DOJ) published a Notice of Proposed Rulemaking explaining how it may update ADA regulations for state and local governments ([ADA Title II](#)). If adopted, the update will add a specific technical standard and other requirements for accessibility of web and mobile applications (apps).

Many government services are provided through websites and mobile apps. When websites and mobile apps are not accessible, they can create barriers for people with disabilities. These barriers make it more difficult or impossible for people with disabilities to access important services like absentee ballots or tax information or may prevent them from joining events like public meetings.

Highlights of the DOJ's Proposal

Adopt Web Content Accessibility Guidelines (WCAG) 2.1, Level AA as the technical standard for state and local governments.

[WCAG 2.1](#) is a set of 13 guidelines for web content. Web content includes both information like text, images, and sounds and the code that defines how information is structured and presented. Each guideline has a set of testable success criteria that determine whether the guideline has been met. Level AA is the middle level for guideline conformance.

State and local governments' web content and mobile apps would have to comply with the technical standard.

Any web content or mobile app that a state or local government makes available or uses to offer services, programs, and activities to the public would need to meet the WCAG 2.1 standard. Examples of web applications Vermont municipalities use include website templates to support content management (ex. WordPress, Drupal) and third-party apps to support fee and fine payment, facility rentals, program registrations, access to land records and maps, reporting problems (ex. See Click Fix), requesting reports, accepting comments, and accepting employment applications.

Certain exceptions are proposed for content that would not have to comply with the technical standard.

Current and commonly used information would be required to be accessible. Narrow exceptions are proposed for specific content types that are used less frequently or would be hard for governments to address right now (ex. a posted 1998 town report). The exceptions would only apply to some kinds of content and when certain facts or circumstances are present.

Limits to exceptions are proposed in the rule.

Some of the proposed exceptions would have limitations (limits). These limits mean an exception would not apply in some situations, and the content would have to comply with the technical standard.

The proposed exceptions and their limits.

The proposed exceptions are:

1. Archived web content. Content that is maintained only for research, reference, or recordkeeping **AND** is kept in a special area for archived content, **AND** has not been changed since being archived is excepted (ex. archived meeting minutes). All three factors must be present for this exception to apply.
2. Preexisting conventional electronic documents. Documents in certain file formats, like word processing, presentation, PDF or spreadsheet files, **AND** that were available on the municipality's website prior to the municipality's compliance date for the final rule are excepted (ex. a Town Report from 2020). This exception would not apply if the pre-existing documents continued to be used by members of the public. Ex. Recreation program registration forms created in 2020 but still used for registrations.
3. Content posted by a third party. If the municipality allows third parties to post content on its website, but the municipality has no control over the content posted, the content would be excepted (ex. public posts to a municipality's message board or public comments posted for a Municipal Plan draft). This exception does not apply to content posted by a municipality's IT or website contractor or to the platform (program) used for making the post.
4. Linked third-party content. Content that a municipality links to from its website generally would not need to comply with the technical standard (ex. the municipality's website links to a report hosted on another organization's website or to visitor information hosted on a business website). This exception does not apply if the municipality uses the linked web content to offer municipal services, programs, or activities (ex. payment of registration fees or taxes, workshop registrations).
5. Public schools' password-protected course content. This exception does not apply to Vermont municipalities.
6. Individualized documents that are password protected. Municipalities might have a password-protected area of their website or have individualized documents like water or tax bills that are password protected. If the content is in certain file formats, like word processing, presentation, PDF, or spreadsheet files, the files are about a specific person, property, or account, **AND** the files are password protected, this exception would apply (ex. a PDF version of a person's water bill that is made available in that person's secure account). The information must be specific to one person and be in one of the specified file formats.

The proposed exceptions do not change a municipality's ADA requirements.

Under current ADA rules, even if a web or mobile app content is excepted from complying with the technical standard, municipalities would still need to provide the information in an accessible format if a person with a disability requested it. This is required by the ADA's [effective communication](#) and [reasonable modifications](#) requirements.

Under current ADA rules, municipalities do not need to make changes that would be a fundamental alteration of the related program or service or that would cause undue financial or administrative burdens. Justifying [undue burden](#) can be challenging. When deciding whether something is an undue burden, municipalities must consider several factors. These factors include the overall cost involved considering the entire organization and any parent organization, and the operation and nature of the organization. If an auxiliary aid or service is an undue burden, the organization must look for an effective alternative. (Northeast ADA Center, 2023, www.northeastada.org/glossary/undue-burden)

Proposed times to comply with the rule once it is finalized.

The compliance date is two or three years from the date the final rule is published. The number of years depends on the population size of the state or local government.

- Population of 0 to 49,999 persons: three years.
- Special district governments, such as solid waste districts, communication union districts, recreation districts, utility districts, fire districts, and transit authorities: three years.
- Population of 50,000 or more persons: two years.

After the compliance date is reached, all web content and mobile apps of state and local governments must comply with the technical standard.

Actions Municipalities Can Take

Learn about the ADA and how to meet municipal responsibilities.

The Vermont Department of Health published a two-page [Fact Sheet](#) on the demographics of Vermont adults with a disability. Ask your municipal staff and volunteer boards whether they know how to address requests for accommodation related to these disabilities and others. Providing accommodation involves more than adapting physical spaces. Knowing how to achieve [effective communication](#) is equally important.

Municipalities can help their staff and volunteer boards learn about ADA requirements and how to meet them. VLCT, in partnership with the Vermont Center for Independent Living and New England ADA Center, will be hosting a training, ***ADA 101: What Your Municipality Needs to Know about the Americans with Disabilities Act in November 2023***. Watch our website and emails for details. There is no cost to participate.

Learn about web content accessibility.

Use available tools. Programs like Adobe Acrobat Pro and those that are part of the Microsoft Office package have built-in accessibility checkers. They can help you identify common errors, such as not providing alternate text for graphics and photos. Repeated use of these checkers can help you learn about making documents accessible.

Access e-trainings. The State of Minnesota IT Services' Office of Accessibility hosts free e-learning programs and a how-to library for creating accessible documents, maps, meetings, multimedia, social media, websites, and applications on its [website](#). Use the Accessibility Quick Cards as a reference or learn about buying accessible products, solutions, and services. The website also includes procurement guidance if you are soliciting for consultant services to create or update your website or mobile apps. Designers of these products are not required to make their products accessible unless you require it.

Use VLCT's Toolkit. Learn more about the ADA and how to meet its requirements for local government with **VLCT's [Improve Accessibility Toolkit](#)**. This toolkit describes current requirements for local governments, provides information about required self-evaluations and transition plans, includes technical resources to help municipalities meet their requirements, and identifies funding resources municipalities can access to accomplish a self-evaluation and transition plan.

Submit comments on the proposed rule.

VLCT submitted [comments](#) about DOJ's proposed rule. Municipalities can choose to submit comments too. The date for comment submission was October 3, 2023, but [Regulations.gov](#) continues to accept comments on the proposed rule. DOJ will read the comments, but it can decide not to include them in its final rule.

Municipalities can review the full [Notice of Proposed Rulemaking](#) for an understanding of the entire proposal.

Nearly one in four Vermonters have a documented disability ([VT Dept. Of Health, 2019](#)). This could mean that one quarter of your residents need extra help in successfully participating in civic life. They could have a hard time seeing, hearing, walking, processing information, or using stairs. There are many things you can do to make accessing municipal services easier for people with disabilities in your community. These aren't just acts of kindness, you are required by law to do so.

Note: This article was adapted from a [Fact Sheet](#) on the Proposed Rulemaking published by the Department of Justice on ADA.gov. [ADA.gov](#) includes a wealth of information and resources to help people with disabilities, state and local governments, and businesses find answers to common questions and common legal documents so they can understand their rights and responsibilities under the ADA.