



WALSH GALLEGOS
KYLE ROBINSON & DE LOS SANTOS P.C.

Digital Accessibility Requirements for School Districts under Section 504

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Some Background...

- **The Americans with Disabilities Act protects the rights of individuals with disabilities in everyday activities.**
 - 1990 – Prohibiting discrimination on the basis of disability
 - Title II of the ADA applies to state and local government services, like public school districts
 - 29 U.S.C. 794 “Section 504”
 - The Department of Justice is responsible for rulemaking to enforce Title II of the ADA



Some Background...

- **The Need**

- Local governments (like public schools) increasingly engage with constituents through websites and applications
- If websites and apps aren't accessible, people may be prevented from sending/receiving correspondence with local government leaders, paying taxes, and receiving critical information about available services and supports
- "The Department believes, and public comments have reinforced, that the requirements described in this rule are necessary to assure "equality of opportunity, full participation, independent living, and economic self-sufficiency" for individuals with disabilities, as set forth in the ADA." [42 U.S.C. 12101\(a\)\(7\)](#)

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Some Background...

- June 24, 2024 – Rule

- A public entity, other than a special district government, with a total population of 50,000 or more shall begin complying with this rule April 24, 2026.
- A public entity with a total population of less than 50,000 or any public entity that is a special district government shall begin complying with this rule April 26, 2027.

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Some Background...

- April 24, 2026 – Interim Final Rule (IFR):
“Nondiscrimination on the Basis of Disability;
Accessibility of Web Information and Services of State
and Local Government Entities.”
- This IFR extended the timeframe for compliance with the
digital accessibility regulations

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Deadlines Extended: More Time to Comply!

- **April 24, 2024: Final Rule Update to Title II of the Americans with Disabilities Act (ADA)**
 - Ensure compliance with accessibility requirements for web content and applications for people with disabilities
 - Applied to public school districts
- **April 20, 2026: DOJ published an Interim Final Rule in the Federal Register**
 - WCAG 2.1 Level AA compliance deadline pushed by 1 year
- **Public Entities with Population of 50K or more → April 26, 2027**
- **Public Entities with Population under 50k → April 26, 2028**

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Overview of Requirements

School districts must ensure

- websites
- mobile apps
- online tools

Are designed and developed so that parents, students, and employees with disabilities can ACCESS and ENGAGE with electronic tools

After deadline, accessibility is an ongoing obligation

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What are the Digital Accessibility Requirements?

Subpart H of Title II of the ADA

- Technical requirements for ensuring web content is compliant
- **Web content: *“information and sensory experience to be communicated to the user by means of a user agent (e.g., a web browser), including code or markup that defines the content's structure, presentation, and interactions. This includes text, images, sounds, videos, controls, animations, and conventional electronic documents.” 28 CFR 35.104***
- Also includes technical requirements for ensuring the accessibility of mobile apps that a public entity provides or makes available, directly or through contractual, licensing, or other arrangements

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What are the Digital Accessibility Requirements?

- Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA
- WCAG is developed by the World Wide Web Consortium
- Intent for the Rule to “build on” and does not supplant the affirmative obligations of schools under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act to provide a Free Appropriate Public Education (FAPE))

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WCAG Principles

Perceivable

Operable

Understandable

Robust

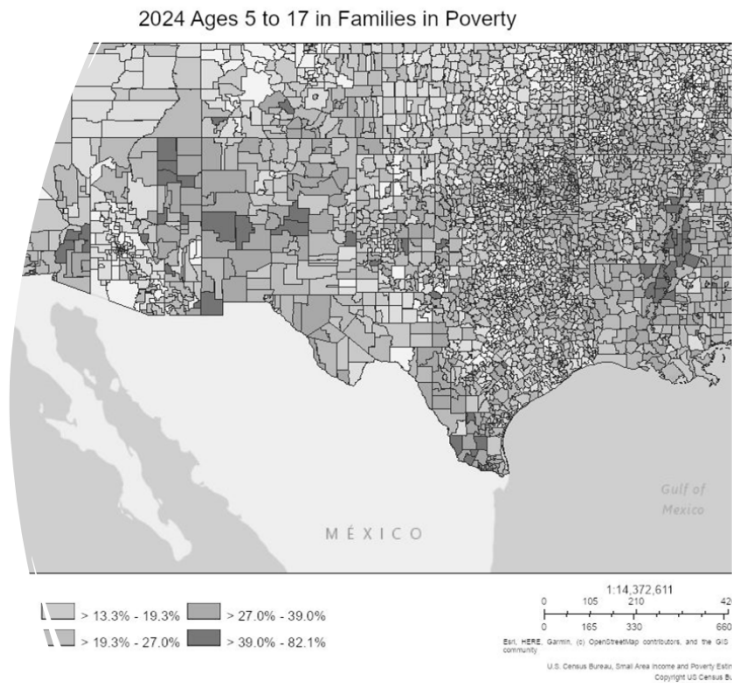
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How do we determine population?

- **Small Area Income Poverty Estimates (SAIPE)**

- **Census.gov / Our Surveys & Programs / SAIPE Program / Data/ SAIPE Data Tools**

Image: census.gov



What's an example of a barrier?

Someone who is blind may use a screen reader to provide a text to speech description of a website or a mobile app.

If the website doesn't have text that describes the image "alt text" – the person may not be able to know what the image includes, making the information inaccessible.

How big of an impact will this have?

- **Census data 2022**
 - about 5.5% of adults have a vision disability
 - 7.6 % have a hearing disability
 - 11% have a cognitive disability
 - 5.8% manual dexterity disability

U.S. Census Bureau's Survey of Income and Program Participation ("SIPP")

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Potential Scenarios for Schools

- **Information portals for accessing student grades**
 - Ensure grades and report cards are screen readable
- **Calendars, Bus Schedules, Cafeteria Menus**
 - Accessible forms with proper contrast and alt text

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Potential Scenarios for Schools

- **Board Meetings / Live Streamed Events**
 - Live captions and transcripts
- **Payment Portals**
 - Apps for fees must be accessible
 - Consider ticketing apps for sports and events

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Potential Scenarios for Schools

- **Instructional Materials**
 - All publishers of state-adopted/SBOE-approved digital materials must certify compliance
 - Vendors must produce Accessibility Conformance Report (VPAT/ACR) showing compliance with WCAG 2.1 AA (or later) and Section 508

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Special Considerations

Conduct training for anyone posting content on school websites or coordinating use of apps

- Teachers, administrators, administrative assistants, coaches, club sponsors, PTA, social media managers, librarians

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Special Considerations

- **Processes for auditing and checking accessibility**
 - Before content is posted, what is required?
 - Must someone sign off or is there a check that can be completed electronically?
 - Systematic or scheduled audits

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Special Considerations

- **When entering into contracts, ensure agreement to comply with WCAG 2.1 AA**
 - Business office should insist on inclusion in contracts

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Special Considerations

- **Ensure compliance through accessibility coordinator / team**
 - Assign a person or team responsible for ensuring compliance
- **Local complaint process**

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Exceptions to Accessibility Requirements

1. **Archived web content (that meets specific criteria)**
2. **Preexisting conventional electronic docs (PDF, Word, Excel, or ppt files) posted before the compliance deadline and no longer in use**
3. **Content posted by a 3rd party that is not posted under a contractual, licensing, or other arrangement with the school district**
4. **Individualized, password-protected, or secured conventional electronic documents**
5. **Preexisting social media posts made before the compliance deadline.**

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Exceptions to Accessibility Requirements

Even if an exception applies, school districts must provide an accessible alternative if requested by student, parent, or employee!

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Enforcement

- **Department of Justice (DOJ) is responsible for enforcing Title II of the ADA**
- **Complaints may be filed by parents, students, employees, or advocacy groups**
- **Consequences**
 - Corrective Action Plans
 - Settlement Agreements
 - Financial penalties
 - Litigation

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Summary

- **Extended time for compliance – but do not delay!**
- **Does not alter or supplant any existing laws or obligations**
 - IDEA / 504 FAPE
- **Will require ongoing training and monitoring once compliance is achieved**

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