

# HEALTH CARE / CYBERSECURITY AND DATA PRIVACY / GOVERNMENT AND REGULATORY AFFAIRS

## INFORMATION MEMO

OCTOBER 18, 2024

## New Updates to Section 504 Clarify Nondiscrimination and Accessibility Mandates

To counter biases and stereotypes rooted in discrimination against people living with disabilities, earlier this year the Department of Health and Human Services (“HHS”) published a final rule, *Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance* (the “Rule”), which became effective on July 8, 2024. Federal grantees – including hospitals and health systems – should take heed of these changes and adjust their processes to ensure compliance.

### Why Does this Matter?

The Rule modifies Section 504 of the Rehabilitation Act, which prohibits entities that receive federal financial assistance (and federal agencies) from discriminating against disabled individuals in areas including opportunities to participate in or benefit from federally funded programs (i.e., due to physical access barriers); and in employment opportunities, including advancement and training. Those subject to 504 include hospitals, healthcare providers, public schools, higher education institutions, and certain nonprofit organizations, as just a few examples. Changes to 504 include:

### Nondiscrimination Obligations

Covered Entities (“CEs”) under 504 now are prohibited from denying or limiting treatment due to biases or stereotypes arising from a person’s disability. In a recent press release, HHS offered examples of such prohibited behavior:

- Denial of a heart transplant because the provider does not believe the patient, who lives with autism, can manage postoperative care; and
- Refusal to order a ventilator for a patient living with Alzheimer’s disease, because the provider believes the patient’s cognitive status should preclude the intervention.

Moreover, CEs must endeavor to administer programs in integrated (rather than segregated) settings, narrowly tailored to the specific needs of individuals with disabilities.

### Accessibility Obligations – Kiosks, Websites, and Apps

CEs using self-service kiosks should ensure that their kiosks are accessible to individuals with disabilities or implement alternative procedures that allow those who cannot use the kiosks to access their programs. For example, CEs with kiosks that offer limited accessibility support to the visually impaired must allow individuals with visual impairment to go directly to the main desk personnel to register for necessary services.

Moreover, beginning on May 11, 2026, CEs with 15 or more employees must ensure that all web and app content complies with technical standards established by the widely recognized Web Content Accessibility Guidelines 2.1 levels A and AA (“WCAG”). Overall, the new WCAG compliance mandate will

not apply to the following exempted content:

- **Archived Web Content** – Historic, outdated web and app content (provided certain conditions are met);
- **Preexisting Conventional Electronic Documents** – So long as they are not currently used to apply for or gain access to a CE's programs, preexisting documentary materials (e.g., documents in .pdf, .pptx or .docx formats) created before May 11, 2026;
- **Content Posted by a Third Party** – All third-party content, unless the third-party posts content to a CE's website pursuant to contractual, licensing, or other formal arrangement with the CE;
- **Password Protected and Other Secured Documents** – Password protected documents that contain information about a specific individual, such as medical records or treatment notes, provided that disabled individuals are able to access information from those documents that pertain to them; and
- **Preexisting Social Media Posts** – Any social media posts published prior to May 11, 2026, for organizations with 15 or more employees, and for organizations with fewer than 15 employees, posts published prior to May 10, 2027.

### **Enforcement**

CEs with 15 or more employees must designate an individual to coordinate nondiscrimination and accessibility compliance efforts and adopt a grievance process for complaints. CEs also must notify employees, applicants, participants, beneficiaries, and other interested persons regarding the Rule's compliance mandates.

### **What's Next**

The broad changes to 504 mean that organizations should:

- Designate an individual to serve as an organization's Section 504 compliance coordinator;
- Create a formal grievance process;
- Assess current nondiscrimination policies to determine what updates need to be made; and
- Analyze websites and mobile apps against the WCAG standards to ensure all web content is compliant by May 11, 2026.

Bond attorneys regularly assist and advise clients in the healthcare, education, and nonprofit industries with respect to accessibility compliance. For more information regarding such matters, please contact [Roger Bearden](#), [Gabriel Oberfield](#), [Mario Ayoub](#), or any Bond attorney with whom you have a relationship.

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A version of this publication appeared in the Westchester Business Journal on October 14, 2024.

