

# HIGHER EDUCATION LAW

## INFORMATION MEMO

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### Digital Accessibility: Upcoming Compliance Deadlines for Public Institutions, and Considerations for Private Institutions

Public entities, including public colleges and universities, face near-term obligations to address and update accessibility standards for all digital materials and web content, including websites, mobile applications and online course materials. In 2024, the Department of Justice (DOJ) finalized rules requiring publicly funded entities, including public colleges and universities, to adhere to the Web Content Accessibility Guidelines 2.1, Level AA, for compliance with Title II of the American With Disabilities Act (ADA), bringing long-anticipated clarity to technical expectations regarding digital accessibility. These changes require institutions to review virtually all digital materials that students, employees or the public access online.

WCAG is a widely adopted technical benchmark developed by the World Wide Web Consortium (W3C) that defines how digital content should be perceivable, operable, understandable and robust. The 2.1 Level AA standard, which has been adopted by the DOJ as the ADA standard applicable to public entities, addresses core barriers such as captions for media, keyboard navigation, sufficient color contrast and clear labels and instructions.

The effective date of compliance depends on an institution's size, as connected to the public entity that the institution is a part of (e.g. a state or county). Institutions connected to governments serving 50,000 or more have a quickly approaching deadline of April 24, 2026, while institutions connected to governments serving a population of less than 50,000 have an extended deadline of April 26, 2027. While these specific compliance obligations and deadlines apply only to public institutions, private institutions also have ongoing general legal obligations to ensure their digital programs and activities are accessible for people with disabilities, including through Titles I and III of the ADA and through Section 504, as well as local analogs. Therefore, while public institutions are focusing acutely on the Title II changes and the specific standards they require, private institutions may also find the regulations instructive in addressing and assessing their own approach to digital accessibility.

#### Who Is Covered and What's in Scope for Higher Ed

As outlined above, the rules apply to state and local government entities, including public colleges and universities, community colleges and school districts. Under Title II, obligations extend to the services, programs and activities these institutions provide. Coverage extends to the websites and mobile applications they operate as well as digital services they offer through contracts, licenses or similar arrangements.

In practice, that means institutions must ensure accessibility not only for their websites—and all of the materials, like PDFs and videos they contain—but also for the range of platforms used throughout higher education, such as admissions and financial aid portals, learning management systems and course sites, student information portals, library catalogs and discovery tools, housing and dining systems, athletics and events sites and mobile apps provided on the institution's behalf must meet the applicable accessibility standard. Institutions are not generally responsible for the entirety of third-party websites they merely link to for informational purposes, but they are responsible for the accessibility of tools they choose or procure for their own services.

#### Limited Exceptions

The rules recognize limited exceptions for materials like archived web content, certain preexisting documents, preexisting social media posts, along with truly unaffiliated third-party content. These carveouts are narrow and primarily turn on when content was created or posted. Examples include retired course sites, digitized archival collections or legacy departmental pages that are not used to access current services. They do not relieve institutions of their ongoing duty to ensure effective communication and equal opportunity. Further, institutions may be able to utilize other exceptions under the ADA, such as an exception for fundamental alterations or undue financial burden. However, such exceptions are narrow and may require robust evaluation and documentation to be relied upon. We recommend that institutions apply all exemptions carefully and document all decisions.

## Other Compliance Obligations Continue, Including for Private Institutions

Although public colleges and universities need to address these updated requirements, institutions must not forget that they need to continue to comply with their accessibility obligations under related laws, such as Section 504 of the Rehabilitation Act. As a result, if there is an exemption under the new rule and digital content does not have to meet the WCAG 2.1, Level AA standard, the institution may still need to provide the content to the person in a format that is accessible to them in line with the institution's already established obligations. Indeed, the U.S. Office for Civil Rights [focused on digital accessibility](#) for many years under Section 504 and these standards also apply to private institutions not subject to the Title II regulations. Additionally, any institution receiving federal funds from the U.S. Department of Health and Human Services, whether public or private, is further subject to that agency's updated Section 504 regulations, which likewise impose specific [digital accessibility obligations](#) with a compliance obligation later this spring.

## Noncompliance

Public colleges and universities that fail to meet the new digital accessibility requirements risk legal, financial or other consequences. The DOJ enforces Title II and the new rules, and noncompliance may lead to federal investigations, negotiated settlements or consent decrees. In addition to foregoing, institutions may face complaints from students, employees or members of the public, which can result in agency findings or civil litigation.

## Practical Compliance Recommendations and Best Practices for Higher Ed

Public colleges and universities designing a compliance plan should evaluate priorities and undertake compliance in steps. Given the pace of online technology development and the proliferation of digital content, digital accessibility is an ongoing compliance issue. Below are some recommended steps:

- **Identify stakeholders and accountable owners:** Create a cross functional group of relevant stakeholders, including both campus-wide units (e.g. IT, disability offices, student affairs, provost's office) along with sufficient representation from schools to address decentralized compliance issues. Designate an individual, such as your ADA/504 coordinator, to help decide on priorities aligned with leadership expectations.
- **Inventory and prioritize:** Catalog websites, apps, files and third party platforms and tools (e.g. admissions, learning management, library, student accounts, campus services portals). Flag high impact areas and separate archival content.
- **Remediate systematically:** Develop a plan to track compliance, including checks to prevent regression.
- **Communicate across campus:** Ensure that employees responsible for IT functions and content generation across campus are aware of requirements and plans to remediate. Developing a formal policy may be useful in setting a community-wide expectation of compliance and clarify responsibilities in a decentralized environment.
- **Test early and often:** Combine automated scans with manual checks.
- **Embed compliance into procurement:** Work with service providers to require current conformance reports, warranties, remediation SLAs and acceptance testing. Avoid disclaimers that undercut accessibility obligations and make digital accessibility a part of every contract negotiation.
- **Offer training by role:** Provide practical training for different stakeholders, tailored to the types of digital content most frequently created or utilized. Consider reminders about the importance of digital accessibility, particularly at the beginning of each semester.
- **Create a feedback mechanism:** Post an accessibility statement and a way for community members to report issues to ensure they can be addressed promptly. Consider trends in any feedback to inform ongoing efforts.

If you have questions about these new rules and compliance obligations, please contact [Brit Schoepp-Wong](#), [Mario Ayoub](#), [Shannon Knapp](#), any attorney Bond's [higher education](#) practice or the Bond attorney with whom you are regularly in contact.

