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## **LEGAL ALERT**

**To:** Neola Clients

**From:** Renning, Lewis & Lacy, S.C.

**Re:** DOJ Issues New Rule Concerning Web Content and Mobile App Accessibility

**Date:** November 2025

On April 24, 2024, the U.S. Department of Justice ("DOJ") published a final rule under Title II of the Americans with Disabilities Act ("ADA") requiring state and local government entities — including public schools — to make web content and mobile applications accessible to individuals with disabilities. This rule marks the first time that the DOJ has adopted a specific technical standard for digital accessibility.

The ADA was originally enacted in 1990 to ensure that individuals with disabilities are not excluded from participation in public programs and services. While the ADA has long required effective communication and equal access, this rule clarifies the application of these principles to digital environments (i.e., websites and apps). In issuing the Final Rule, the DOJ emphasized the fact that state and local governments are increasingly providing services through websites and mobile applications. Consequently, when these digital platforms are inaccessible, they create barriers for people with disabilities to access government services; in the school context, this can include access to educational resources and course materials, registration and enrollment systems, parent portals and communication platforms, and online forms and applications. For this reason, the DOJ determined it was the appropriate time to adopt a technical standard = Web Content Accessibility Guidelines ("WCAG") 2.1, Level AA – to ensure digital content is accessible.

School districts that have a population of 50,000+ people have to comply with the new technical standard by April 24, 2026; school districts with populations of fewer than 50,000 have until April 26, 2027, to comply. Wisconsin school districts will want to use population estimates in the most recent Small Area Income and Poverty Estimates (SAIPE) to determine which deadline applies to them. School districts entirely within one City or County may rely on the population of that city or county.

Once a district is obligated to comply with the Final Rule, its web content (i.e., information and experiences available on the web, including text, images, sound, videos, and documents) and mobile applications (i.e., software applications downloaded and designed to run on mobile devices), along with web content/mobile apps provided or managed by third-parties on behalf of the district will have to meet the WCAG 2.1, Level AA standard, which includes features such as alternative text for images, keyboard navigation, sufficient contrast for text, captioning and transcripts for audio/video content, and logical structure and screen reader compatibility.

While the regulations apply to nearly all web content and mobile apps, there are a few limited exceptions: archived web content; preexisting conventional electronic documents; third-party posted content (i.e., content not posted by contracted vendors); individualized password-protected documents (i.e., documents about specific persons, properties, or accounts that can only be accessed through the use of a password); and preexisting social media posts. In order for the archived web content exception to apply, the content has to (a) have been created before the compliance date, (b) be maintained solely for reference, research, or recordkeeping purposes and in a special archive section on the website, and (c) remain unchanged since it was archived. Similarly, preexisting conventional electronic documents (e.g., word processing, presentation, PDF, or spreadsheet files) have to have been available before the compliance date and not be currently used for applying, accessing, or participating in district services in order to avoid having to comply with the WCAG 2.1, Level AA standard. Importantly, even when an exception applies, the district must still provide effective communication and reasonable modifications under existing ADA obligations.

To assist districts with their compliance obligations under the Final Rule, Neola has updated Policy and Administrative Guideline 7540.02 to specify the WCAG 2.1, Level AA standard, along with the five (5) exceptions referenced above. Additionally, the

vendor/contract procurement language in the documents has been strengthened.

In advance of their applicable compliance deadline, Neola recommends that districts conduct Accessibility Audits – i.e., inventory all district websites, web applications, and mobile apps to assess their current WCAG 2.1, Level AA compliance status. If web content or a mobile app is found not to meet the new technical standard, the district should promptly remediate the situation. Be advised, this may prove more challenging than one might initially think; for example, some districts have a fair amount of content on their district websites that is posted in the Portable Document Format (i.e., PDFs), which, unfortunately, is not always compliant with the WCAG 2.1, Level AA standard.

Relatedly, as specified in Policy and AG 7540.02, districts will need to prospectively conduct accessibility testing and annual compliance audits, and provide a means for users to submit any concerns they may have related to web content or mobile apps not being accessible.

Next, in addition to auditing existing content and apps to assess their accessibility, districts should review new and existing contracts (and related RFPs) with the vendors it uses to host/publish web content and/or operate mobile apps on its behalf to verify those agreements which require the vendors to comply with the WCAG 2.1, Level AA standard. To that end, districts will want to work with their local legal counsel to ensure future contracts contain language requiring vendors to ensure "all web content and mobile applications meet or exceed Web Content Accessibility Guidelines (WCAG) 2.1, Level AA standards as required by Title II of the Americans with Disabilities Act, 28 C.F.R. § 35.104." Likewise, districts will want those contracts to provide for vendor liability for ADA non-compliance, the right for the district to terminate a contract for a vendor's accessibility failures, and the opportunity for the district to recover any legal defense costs and damages associated with a lawsuit alleging a failure by the district to meet its ADA-accessibility obligations.

Finally, it will be important for districts to ensure relevant staff are appropriately trained concerning the new technical standard so that they can assist their districts in complying with WCAG 2.1, Level AA, so persons with disabilities will be able to access – on a nondiscriminatory basis – the district's programs and services as offered on their web content and mobile apps.

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