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Justice Department to Issue First-Ever Rules on Web Accessibility Under the ADA



The U.S. Department of Justice (DOJ) recently [announced](#) its intention to adopt rules setting forth web accessibility standards for state and local government entities, which are regulated under Title II of the Americans with Disabilities Act (ADA).

If adopted, the rules would be the first of their kind under the ADA. The publication of this announcement may portend future action by the DOJ to adopt web accessibility requirements under Title III of the ADA, which covers a wide range of private businesses that provide goods and services to the public.

In the announcement, the DOJ noted that many state and local government websites "fail to incorporate or activate features that enable users with disabilities to access the public entity's programs, activities, services, or information online." To address this issue, the DOJ intends to publish a Notice of Proposed Rulemaking (NPRM) to amend its Title II regulations to incorporate technical standards regarding web accessibility. Consistent with its past statements, the DOJ characterized the yet-to-be-unveiled standards as an effort to assist public entities in complying with their "existing obligations" to make their websites accessible under Title II. The DOJ plans to publish the NPRM in April 2023, with a public comment period to follow and close by June 2023.

Although this latest announcement by the DOJ technically addresses web accessibility only in the context of Title II, it provides perhaps the most concrete evidence yet that the DOJ may be considering formal web accessibility rules under Title III. The DOJ [issued guidance](#) earlier this spring advising entities covered by Title II and Title III on how to make their websites accessible in line with the ADA. The fact that the DOJ is now advancing toward the adoption of web accessibility regulations under Title II suggests that a similar rulemaking may be on the horizon with respect to Title III. Various stakeholders—including government entities, businesses, courts, and members of and advocates for the disability community—have long wrestled over whether and to what extent the ADA applies to web content, so the DOJ's planned action promises to provide much-needed clarity on this issue.

Authors

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