

APRIL 11, 2024 | DISCRIMINATION, HARASSMENT & RETALIATION

New Website Accessibility Rule to Go into Effect

On Monday, April 8, 2024, Attorney General Merrick Garland signed the final rule under Title II of the Americans with Disabilities Act (ADA) to ensure the accessibility of web content and mobile applications (apps) for people with disabilities. This final rule clarifies the obligations of state and local governments to make their websites and mobile applications accessible and marks the United States Justice Department's latest effort to ensure that no person is denied access to government services, programs, or activities because of a disability. According to Attorney General Garland, "by issuing clear and consistent accessibility standards for state and local governments' digital content, this rule advances the ADA's promise of equal participation in society for people with disabilities."

While this rule does not yet apply to businesses in the private sector, it is inevitable that such a rule is forthcoming, and that this rule will be used as a model for any future rule. Thus, it is important for all hotels, restaurants, stores, and other places of public accommodation to be aware of the requirements set forth in this final rule and, where possible, to start preparing for the issuance of a similar rule.

As for the content of the final rule, it mandates technical standards for state and local governments to help ensure the accessibility of their programs and services provided through the web and mobile apps by adherence to WCAG, the Web Content Accessibility Guidelines, which is a set of guidelines that say what is needed for web accessibility, such as requirements for captions for videos. The stated goal of this final rule is to achieve a more inclusive society by providing clarity on how to make sure these platforms are accessible for people with disabilities and provide standards for addressing a wide variety of perceived barriers. For example, the rule will help ensure blind individuals can access information about public transportation on a city's mobile app or website, enable people who are deaf or hard of hearing to participate in university lectures online, and allow individuals with manual disabilities affecting their ability to use a mouse to access web information about voter registration. A fact sheet detailing information about the final rule is [available here](#).

Again, these rules are not (yet) required for businesses in the private sector. But it would be naïve to think that such rules are not coming down the pike. Thus, it may not be a coincidence that, to get ahead of the curve, some businesses are being proactive when it comes to accessibility (both website accessibility and "brick and mortar" accessibility).

For example, one Starbucks in Washington DC is now known as the "Starbucks Signing Store." That store, located near Gallaudet University, was created specifically for deaf and heard of hearing customers. It is staffed by ASL-fluent employees and uses technology and design elements that cater to its customers, and the outdoor

umbrellas and green worker aprons even feature the word “Starbucks” spelled out in sign language.

Another Washington DC Starbucks, this one in the Union Market area, also introduced another new concept focused on accessibility. This particular store, which is the first of its kind, is an effort to accommodate a wide range of disabilities – lower countertops for patrons who use wheelchairs, acoustic dampening for those with hearing aids, a point-of-sale system designed to be easier to use in various ways, and other design features intended to make the store’s experience more welcoming to everyone.

Some hotels and other places of lodging are also taking proactive steps to accommodate individuals with disabilities above and beyond what is required by the ADA. Indeed, some hotels have installed an audio format signage system, allowing visually impaired guests to navigate the property independently with a mobile app.

Regardless as to whether your company wants to simply adhere to the requirements set forth in the ADA or go above and beyond, as a prudent business practice (and as a good corporate citizen) you should, at a minimum, consult with your ADA attorney to ensure that both your company’s website and its physical spaces are ADA compliant and usable by individuals with disabilities. Being proactive in this regard could be the key to avoiding costly ADA lawsuits down the road.