AMERICANS WITH DISABILITIES ACT (ADA)

Guidance on Digital Accessibility for Kentucky Web Content and Mobile Apps

Commonwealth of Kentucky Office of Technology (COT)

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Introduction

The **Americans with Disabilities Act (ADA)**, originally signed into law in 1990, requires public entities to provide equal access to services, programs, and facilities for individuals with disabilities. With the increasing reliance on digital technology for accessing government services, the ADA has evolved to address the accessibility of websites, mobile applications, and other digital resources provided by state and local governments.

ADA Amendments (June 24, 2024)

On June 24, 2024, the Americans with Disabilities Act (ADA) was amended to include more specific regulations governing the accessibility of digital services. While digital accessibility regulations initially took effect on January 1, 2018, these amendments have been updated to emphasize that all digital services—including websites, mobile applications, and other online resources—must be fully accessible to individuals with disabilities.

This shift is crucial as more people rely on digital technologies to interact with government services, and ensuring these platforms are accessible to all users, including those with disabilities, has become a central part of equal access under the law.

Purpose of this Guidance Document

This document is designed to assist Kentucky state government entities in understanding and complying with the updated ADA requirements regarding digital accessibility. It outlines the key aspects of the new rule, provides best practices for ensuring that websites and digital services are accessible, and offers resources to help state agencies achieve compliance.

Important Compliance Dates

The compliance deadlines for meeting the updated ADA accessibility requirements are fast approaching. These deadlines, referenced below, vary depending on the population size of the public entity:

- **April 24, 2027**: Public entities with a population of 50,000 or more (excluding special district governments) must comply with the accessibility rules for digital services, which likely includes ensuring web accessibility and other technology-related accessibility requirements.

- **April 26, 2028**: Public entities with a population of less than 50,000 or those considered special district governments must comply with the same accessibility rules.

Kentucky state agencies must be in compliance with digital accessibility requirements by **April 2027** because the state has a population of over 50,000. These deadlines provide a framework for agencies to implement necessary changes, ensuring all citizens, including those with disabilities, can fully access online government services.

Kentucky Accessible Information Technology (AIT) Law

The Kentucky Accessible Information Technology (AIT) Law (KRS 61.980 to 61.988) complements the ADA by specifically focusing on making Kentucky's state government digital resources usable by individuals with disabilities. This law mandates that any information technology (IT) used, developed, or purchased by Kentucky state agencies must be accessible to all, including those with visual, auditory, cognitive, or motor disabilities. This aligns Kentucky with broader federal guidelines, such as those set forth by Section 508 of the Rehabilitation Act and the Americans with Disabilities Act (ADA).

Key Requirements Under the AIT Law:

- **State Agencies' Responsibility:**
  Agencies must ensure their websites, applications, software, and other IT systems are accessible to individuals with disabilities. This involves making websites navigable and usable for people with varying disabilities (e.g., visual, auditory, motor, or cognitive).

- **Adherence to Accessibility Standards:**
  Agencies are required to adhere to established accessibility standards, such as the Web Content Accessibility Guidelines (WCAG). Compliance with these standards ensures that digital content is accessible and usable to individuals with disabilities.

- **Vendor Compliance:**
  AIT law mandates that vendors supplying information technology to the state must also ensure their products meet accessibility standards. Non-compliance can result in legal or contractual implications.

- **Technical Assistance and Guidance:**
  The Kentucky government provides technical assistance and guidance to help agencies

comply with the law and the broader federal accessibility requirements (like **Section 508 of the Rehabilitation Act** and the ADA).

Key Takeaways for Kentucky State and Local Government Entities:

1. **Digital Accessibility Must Be Prioritized:**
   Agencies must ensure that all digital resources—websites, applications, and other digital systems—are accessible to individuals with disabilities, providing an inclusive experience for all users.

2. **Legal and Compliance Obligations:**
   Non-compliance with the ADA or Kentucky AIT law could have serious legal consequences, including lawsuits or loss of contracts with state agencies.

3. **Vendor Responsibility:**
   When purchasing or contracting for digital services, agencies must ensure that vendors comply with accessibility standards.

4. **Guidance and Resources Available:**
   Agencies can access technical assistance and resources to ensure proper implementation and compliance with digital accessibility standards.

Importance of Digital Accessibility:

Digital accessibility is critical in fostering an inclusive society where people with disabilities can access public services, information, and opportunities on equal footing with others. The AIT law is a crucial component of Kentucky's broader accessibility efforts, and its implementation ensures that individuals with disabilities have the same access to digital resources as everyone else.
By ensuring their websites and applications are accessible, Kentucky state agencies are helping to break down barriers and improve the quality of life for individuals with disabilities.

Overview of ADA Digital Accessibility Amendments

Effective Date & Scope

- **Amendment Date:** The most recent amendments to the ADA were finalized on **June 24, 2024**.
- **Digital Services Affected:** The amendments extend the ADA's reach to websites and mobile applications offered by state and local government agencies.
- **Primary Requirement:** Digital services must be accessible to individuals with disabilities, ensuring that government websites and applications are usable by people with a range of disabilities (visual, auditory, cognitive, etc.).

Key Requirements of the New ADA Rule for State and Local Governments

A. Web Content Accessibility Guidelines (WCAG) Compliance

The new rule requires state and local government websites and applications to comply with the **Web Content Accessibility Guidelines (WCAG) 2.1**, which provide the internationally recognized standards for digital accessibility. Key principles include:

- **Perceivable**: Content must be presented in a way that users can perceive, such as providing alternative text for images and captioning for videos.
- **Operable**: All user interface components (buttons, forms, etc.) must be operable via keyboard and other assistive technologies.
- **Understandable**: Content must be clear and predictable, with simple language and consistent navigation.
- **Robust**: Content must be compatible with a wide variety of devices and assistive technologies (e.g., screen readers, voice navigation).

B. **Accessibility of Mobile Applications**

- The rule extends to mobile applications provided by state and local governments, requiring them to be accessible to individuals with disabilities.

- Mobile applications compliance includes ensuring that the applications are compatible with assistive technologies (screen readers, voice commands, etc.) and meet WCAG 2.1 guidelines.

C. Third-Party Content

Many state and local government websites incorporate third-party content (e.g., embedded videos, social media feeds). The ADA rule requires that this content also be accessible. Government agencies are responsible for ensuring the accessibility of external content used on their websites and applications, even if the content is provided by third-party vendors.

D. Compliance and Enforcement

- The U.S. Department of Justice (DOJ) enforces ADA compliance for state and local governments. Failure to comply can result in legal action, including lawsuits and fines.
- Agencies must take proactive steps to ensure that digital services are accessible and fully compliant with ADA standards.

Best Practices for Achieving ADA Compliance

Achieving and maintaining ADA compliance requires a combination of proactive design, ongoing monitoring, and testing to ensure accessibility standards are met. Below are some best practices for Kentucky government agencies:

A. Begin with Accessible Design

- Incorporate accessibility into the design phase of websites and mobile applications. It's easier to create accessible content from the start rather than retrofitting existing websites or applications.
- Ensure websites and applications are designed to be operable with keyboards, screen readers, and voice controls.

B. Conduct Regular Accessibility Audits

- **Automated Tools**: Use tools like WAVE, Google Lighthouse, and Axe Accessibility Checker to evaluate the accessibility of digital services.

- **Manual Testing**: Perform manual tests to ensure that assistive technologies (like screen readers) work correctly with your content.
- **User Testing**: Engage users with disabilities to test your website and applications and gather real-world feedback on accessibility barriers.

C. Ensure Continuous Monitoring and Updates

- **Regular Audits**: Conduct ongoing audits to ensure that any updates or new content continue to meet accessibility standards.
- **Monitor Third-Party Content**: Ensure that external resources (e.g., embedded videos, social media) remain compliant with accessibility standards.

D. Provide Staff Training

- **Training for Developers**: Provide regular training for your web developers, designers, and content creators to ensure they are familiar with **WCAG 2.1** standards and accessibility best practices.
- **Awareness for All Staff**: Raise awareness of accessibility issues across the agency to ensure that accessibility is considered at every stage of the digital content creation process.

Resources for ADA Digital Accessibility Compliance

Several tools and resources are available to help Kentucky state and local government agencies achieve and maintain ADA compliance for websites and mobile applications.

A. Web Content Accessibility Guidelines (WCAG)

- **WCAG 2.1 Guidelines:**: These guidelines provide the technical standards for web accessibility.

B. **Testing and Monitoring Tools**

Agencies can use various tools to test and ensure digital accessibility on their websites and applications:

Free Tools:

- **WAVE (Web Accessibility Evaluation Tool):** WAVE is an easy-to-use tool for assessing website accessibility. It provides visual feedback on web page content, highlighting potential issues.

- **Google Lighthouse Tool :** An open-source tool built into Google Chrome's Developer Tools that audits accessibility, performance, SEO - search engine optimization, and more.

- **Axe Accessibility Checker Tool:** A free browser extension that helps identify accessibility issues related to WCAG compliance.

Paid Tools:

- Siteimprove**:** A comprehensive tool that offers automated accessibility audits, tracking, reporting, and suggestions for remediation.
- UserWay**:** Provides an accessibility widget for websites and offers accessibility testing services to help meet ADA requirements.

- **Adobe Acrobat Pro:** For ensuring PDF accessibility by checking and remediating documents to meet WCAG standards.

C. Professional Auditing & Remediation Services

- Deque Systems: Offers accessibility testing and WCAG compliance services.
- Siteimprove**:** Provides comprehensive tools for accessibility audits and ongoing monitoring.

D. Training Resources

- **WCAG Training:** Web accessibility training to help your staff understand the WCAG standards.
    - W3C Web Accessibility Training

Kentucky Assistive Technology Services (KATS) Network

The **Kentucky Assistive Technology Services (KATS) Network** is a valuable resource for organizations in Kentucky that need training, consultations, or assistance related to ADA compliance for digital accessibility. They provide education and resources on the use of assistive technologies and how to implement ADA-compliant digital solutions.

ADA Training Resources Provided by KATS:

- **Workshops and Seminars:** KATS often offers or partners with other organizations to provide workshops and seminars on ADA compliance, assistive technology, and best practices for making spaces accessible.
- **Online Resources:** Through its website and other outreach platforms, KATS provides access to training materials, videos, and documents that explain how to meet ADA requirements in both physical and digital environments.
- **Personalized Support:** KATS offers tailored consultations and one-on-one assistance to help individuals or organizations navigate ADA compliance issues related to assistive technology.

Engaging IT Staff Augmentation Vendors for Category 2 Deliverable Services and Training Specialists for Specialized Help

For more complex needs, Kentucky agencies can engage the IT Staff Augmentation vendors for Category 2 Deliverable Based Services or the IT Training Contracts to assist with detailed accessibility audits, ongoing analysis, remediation efforts, and staff training.

The agencies should:

1. **Identify Accessibility Gaps:**
   - Conduct an initial internal review or accessibility audit of your website. If significant gaps are found, or you need expertise, engage a CAT2 vendor per the CAT2 process.
2. **Request Specialized Services:**

- CAT2 vendors can provide advanced audits, ensuring compliance with ADA, WCAG, and Section 508 standards.

- Vendors can assist with remediation of issues, including making web content more accessible for users with disabilities.

3. **Training and Capacity Building**:
    - Many IT Training vendors offer training for your team on best practices for maintaining digital accessibility, so your web developers and content managers are prepared to ensure ongoing compliance.

4. **Support for New Websites and Apps**:

    - If your agency is building a new website or application, a CAT2 vendor can help guide the development process to ensure accessibility is built-in from the start.

Legal Compliance

- **Americans with Disabilities Act (ADA):** This is a U.S. federal law that ensures equal access to public services for individuals with disabilities, including access to digital content. Failure to comply with ADA requirements for digital accessibility can result in legal consequences for public entities.

- **Section 508 of the Rehabilitation Act:** Section 508 mandates that federal agencies' electronic and information technology be accessible to people with disabilities. While this primarily applies to federal agencies, many state governments, including Kentucky, adopt similar standards for state-level websites and digital content.

- **Kentucky State Guidelines:** In addition to following WCAG and federal regulations, Kentucky may have its own state-specific accessibility guidelines. It's essential for developers and agencies to familiarize themselves with these rules to ensure state compliance.

Disclaimer: This guidance document is intended to provide general information and does not constitute legal advice. It is recommended that state government entities consult with legal counsel to ensure compliance with the ADA New Rule.

Exceptions to the Rule

While the ADA New Rule requires that all web content be accessible, there are some exceptions to this requirement. The DOJ has outlined **five general exceptions** where compliance may not apply:

1. **Archived Web Content:**

   Content that is no longer actively maintained or updated but is preserved for historical purposes. Examples include old news articles or outdated reports that are not regularly modified.

2. **Preexisting Conventional Electronic Documents:**

   Documents like PDF files, Word files, or spreadsheets that were created prior to the enforcement of the accessibility rules. If these documents are not revised or modified, they may not be subject to immediate accessibility requirements.

3. **Third-Party Content Not Relating to Contractual or Other Obligations with a Public Agency:**

   Content hosted on third-party platforms or external websites that are not directly controlled by a public agency. This includes content not part of any contractual or legal obligations between the government and the third-party provider.

4. **Password-Protected, Individualized Documents:**

   Documents that are accessible only to individuals with a specific login, such as utility bills, tax information, or personalized government services. These documents are often not intended for public access and are tailored to specific users.

5. **Preexisting Social Media Posts:**

   Content that was originally posted on social media platforms before the ADA New Rule came into effect. The rule does not require retroactive compliance for social media posts made prior to the enforcement of the new regulations.

Conclusion: Achieving Digital Accessibility for All Kentuckians

The June 24, 2024, ADA amendments reinforce the importance of digital accessibility for Kentucky state and local government websites and mobile applications. These updates

emphasize that digital services must be designed and maintained with accessibility in mind to ensure that all individuals, regardless of ability, have equal access to government information and services.

By understanding the ADA regulations, using accessible design principles, conducting regular testing and audits, and leveraging the right tools and resources, Kentucky can create an inclusive digital environment for all its citizens.

Remember, ADA compliance is an ongoing process. It requires commitment, monitoring, and regular updates to ensure accessibility is maintained. By adopting these best practices and utilizing the available resources, Kentucky government agencies can successfully meet the ADA requirements and serve all citizens, including those with disabilities.

Appendix A

ADA Fast Facts

Here are some Fast Facts about ADA (Americans with Disabilities Act) and Digital Accessibility:

1. What is ADA?

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990. While the law was groundbreaking in physical accessibility, its impact on digital accessibility has only grown in recent years, particularly as the internet has become a critical part of daily life.

2. Digital Accessibility Is a Hot Topic

The DOJ (Department of Justice) estimates that as many as 20% of all websites could be non-compliant with accessibility standards. This means millions of websites and applications are potentially inaccessible to people with disabilities, sparking a growing need for digital accessibility laws and best practices.

Visual Impairment in the U.S. (Census Bureau Report)

- According to the Census Bureau's "Americans With Disabilities" report:
    - 7.8 million people in the United States, or 3.4% of the population aged 15 and older, have difficulty seeing words in ordinary newspaper print.
    - Of these, 1.8 million people reported being unable to see at all.

3. It's About More Than Just Screen Readers

When we think about digital accessibility, screen readers (tools that read the text on a screen out loud) often come to mind, but the scope is much broader! Digital accessibility also includes features like:

- **Captioning** for videos
- **Color contrast** for those with visual impairments
- **Keyboard navigation** for those unable to use a mouse
- **Text resizing** and more

4. WCAG: The Global Standard

The Web Content Accessibility Guidelines (WCAG) are like the "style guide" for creating accessible websites and applications. They were first created by the World Wide Web Consortium (W3C) in 1999, and their 2018 update has become the gold standard for digital accessibility around the world.

5. Not Just About Legal Compliance

While ADA compliance is crucial, businesses and government agencies are increasingly recognizing that digital accessibility isn't just a legal requirement — it's a customer satisfaction and brand loyalty builder. Accessible websites are more likely to be trusted by a wider audience, including people with disabilities, their families, and advocates.

6. Accessibility Can Help with SEO

It's not all about helping users with disabilities; accessible websites can improve your SEO (Search Engine Optimization). For example, using descriptive alt text for images and proper heading structure helps search engines understand and rank your content better.

7. The Legal Landscape is Evolving

Did you know that digital accessibility lawsuits are on the rise? In 2020 alone, there were over 3,500 ADA-related website lawsuits filed in the U.S. In fact, some companies are even being sued for failing to provide accessible digital services — highlighting how important ADA compliance is for businesses today.

8. Accessibility Is Good for Everyone

Creating accessible websites doesn't just help people with disabilities — it benefits everyone. Features like closed captions can be useful in noisy environments, and high contrast text can help anyone reading in bright sunlight. Accessibility improves usability for all!

9. The Power of "Alt Text"

“Alt text” (alternative text) is a simple yet powerful tool. This short text description of an image helps screen readers convey what the image is to users with visual impairments. It’s also a good practice for SEO! But did you know that approximately 30% of images on the web still lack alt text?

10. Disability Isn’t Always Visible

It’s important to remember that disabilities aren’t always visible. While some people use wheelchairs or guide dogs, others might have cognitive or hearing impairments, or they may experience temporary disabilities (like a broken arm or recovering from surgery). Digital accessibility benefits everyone, not just those with permanent disabilities.

Appendix B

Resources

Government

- **ADA Web Accessibility Standards:** https://www.section508.gov/
- **New ADA Rule:** https://www.federalregister.gov/documents/2024/04/24/2024-07758/nondiscrimination-on-the-basis-of-disability-accessibility-of-web-information-and-services-of-state
- **New ADA Rule Fact Sheet:** https://www.ada.gov/resources/2024-03-08-web-rule/

Non-Government

- **W3C Web Accessibility Initiative:** https://www.w3.org/
- **ADA National Network:** https://adata.org/
- **WebAIM:** https://webaim.org/
- **ADA Fundamentals:** https://www.w3.org/WAI/fundamentals/