



MEMORANDUM

To: Board of Trustees

From: Klausner, Kaufman, Jensen & Levinson

Subject: Rule on the Accessibility of Web Content and Mobile Apps

Date: April 1, 2026

Background/Requirements

On April 24, 2024, the Federal Register published the Department of Justice's final rule updating its regulations for Title II of the Americans with Disabilities Act (ADA). The final rule has specific requirements about how to ensure that web content and mobile applications (apps) are accessible to people with disabilities. Like the rest of Title II, the rule applies to all public entities (which includes any agencies or departments of public entities) as well as special purpose districts. This includes pension plans, as they are agencies of a public entity.

The rule requires that state and local governments, including agencies of state and local governments, make web content and mobile apps accessible. The rule sets a concrete standard. The final rule establishes the Web Content Accessibility Guidelines (WCAG) Version 2.1, Level AA, as the technical standard for state and local governments' web content and mobile apps.

The deadline for compliance with the Final Rule will depend on the population size of the public entity or agency in question. The rule provides that the total population is generally determined by reference to the population for a public entity or the population estimate

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for a public entity of which an entity is an instrumentality as calculated by the United States Census Bureau. While pension plans are agencies of a local government, as opposed to an instrumentality of the local government, in an abundance of caution, our opinion is that the total population of the local government, is the operative standard.

For pension plans where the local government population is greater than 50,000 the compliance deadline is April 24, 2026.

For pension plans where the local government population is less than 50,000, the compliance deadline is April 26, 2027.

For special government districts, the compliance deadline is also April 26, 2027.

All public entities must ensure that their web content and mobile apps comply with Level A and Level AA success criteria and conformance requirements specified in WCAG 2.1, unless the public entity can demonstrate that compliance with these requirements “would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.” The public entity has the burden of proof that compliance would result in such alterations or burdens.

Additionally, even if the web content does not meet the WCAG 2.1 standards, the content can still be considered WCAG-compliant if a “conforming alternate version” of the content is provided. A “conforming alternate version” is a separate web page that meets the WCAG 2.1 Level AA criteria, contains the same information and functionality as the inaccessible web page, is as up to date as the non-conforming content, and is at least as accessible as the non-conforming content. A public entity may use a conforming alternate version only where it is not possible to make web content directly accessible due to “technical or legal limitations.”

The rule specifically applies to web content that a public entity provides or makes available, subject to the following exceptions:

1. Archived web content;
2. Preexisting conventional electronic documents;
3. Content posted by a third party;
4. Individualized conventional electronic documents that are password protected or otherwise secured; and
5. Preexisting social media posts.

There are over 80 different “success criteria” set forth in WCAG 2.1, available here: [Web Content Accessibility Guidelines \(WCAG\) 2.1](#). Based on the website, WCAG 2.1 “covers a wide range of recommendations for making Web content more accessible.” Here is a customizable quick reference that includes all the guidelines, success criteria, and techniques for authors to use as they are developing and evaluating Web Content: [How](#)

[to Meet WCAG \(Quickref Reference\)](#). Here are the techniques, which provide examples of ways to meet the WCAG 2.1 AA: [All WCAG 2.1 Techniques](#) | [WAI](#) | [W3C](#).

Recommendations

Pension plans where the local government population is greater than 50,000 will need to comply with this rule by April 24, 2026. If your local population is less than 50,000, you will have until April 2027 to comply with this rule.

This means that all documents and digital content that do not fit into one of the exceptions listed above will need to meet the WCAG 2.1 Level AA standard by the above noted dates.

For pension plans that maintain their own website, we are recommending that this memo be sent to vendors to alert them of this requirement so future reports and web content will meet the WCAG 2.1 Level AA Standard. If vendors or the pension plan do not have the software in place to meet that deadline, our recommendation is to not include any new documents (those approved by the Board after April 2026) on the Plan's website until such time as they are in compliance with the rule. Some pension plans may need to take down their websites entirely until they are in compliance with the rule.

The only information needed on the pension plan's website is the Public Records Custodian name and contact. Additionally, we are recommending that Boards work with their Plan Sponsor's IT Department, as well as the Plan Sponsor to come into compliance at the earliest possible opportunity. Either the Plan Sponsor will need to have software in place, or the vendors will need to provide the pension plan with a compliant format.

Additionally, for future engagement letters and contracts with vendors, our firm will seek contractual provisions that require the vendor to provide their reports in an ADA compliant format.

If a pension plan is presented with an ADA claim regarding this issue, please contact our office for assistance.