

Public Law Update – Department of Justice Publishes Regulation Requiring Local Agencies to Make Websites and Mobile Apps Accessible To Persons With Disabilities

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On April 8, 2024, the Department of Justice ("DOJ") issued a Final Rule for the Americans with Disabilities Act ("ADA"), which requires local government websites and mobile apps to comply with Web Content Accessibility Guidelines 2.1 Levels A and AA. These standards come from an internationally recognized accessibility standard for web access.

Title II of the ADA requires local agencies to ensure that no person with a disability is excluded from participation in the agency's activities or programs or denied the benefits of agency services because of their disability. The DOJ has published regulations finding that Title II of the ADA applies to local agency websites and mobile apps.

With this Final Rule, the DOJ establishes technical standards for websites and mobile apps to ensure they are accessible to persons with disabilities. The purpose of the Final Rule is to ensure that as more government services move online that individuals with disabilities can access the same important content and have the ability to exercise their constitutional rights of speech, assembly, association, petitioning and voting. The Final Rule attempts to do this by requiring local agencies' websites and mobile apps to have non-text alternatives, audio descriptions or captions for videos, and meet other accessibility requirements for persons with disabilities. Local agencies can only use alternatives to the Accessibility Guidelines if there is a technical or legal limitation that prevents them from making the documents accessible.

There are five exceptions from the Final Rule's requirement that cities comply with the new Accessibility Guidelines: (1) archived web content; (2) preexisting electronic documents; (3) content posted by a third party, unless the third party has a contract or license with the city; (4) password-protected documents; and (5) preexisting social media posts. There are detailed requirements for web content to qualify for these exceptions, however.

The Final Rule goes into effect on June 24, 2024. Cities with a

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population of more than 50,000 do not have to comply with the Final Rule until two years after it is published in the Federal Register. Cities with populations less than 50,000 and special districts have three years to comply with the Final Rule.

Suggestions for Local Agencies

Well before the Final Rule goes into effect, Burke encourages local agencies to meet with their IT Department or webhost and their attorney to ensure that the local agency is prepared to comply with the Final Rule when it goes into effect.

Attorneys at Burke regularly advise clients on legal matters related to compliance with the Americans with Disabilities Act.

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