

# ADA Title II Ruling:

*What Your Clients Need From You*



COMMON THREADS

\*I am not  
a lawyer.



## About Hannah

Hannah Wagner is the founder of [Common Threads](#), a digital accessibility consultancy serving Michigan municipalities. With a background in user experience design across highly regulated industries, she is a Certified Professional in Accessibility Core Competencies (CPACC), holds four inclusive design patents from her work at General Motors, and is an Adjunct Instructor for a graduate-level Accessibility & Design class at MSU.

# What Is the New Ruling?

State and local governments have always been required to ensure equal access to their programs, services, and activities — including digital ones.

In 2024, the DOJ added specificity: digital content must now meet a defined technical standard, with clear deadlines for compliance.

## Enforcement

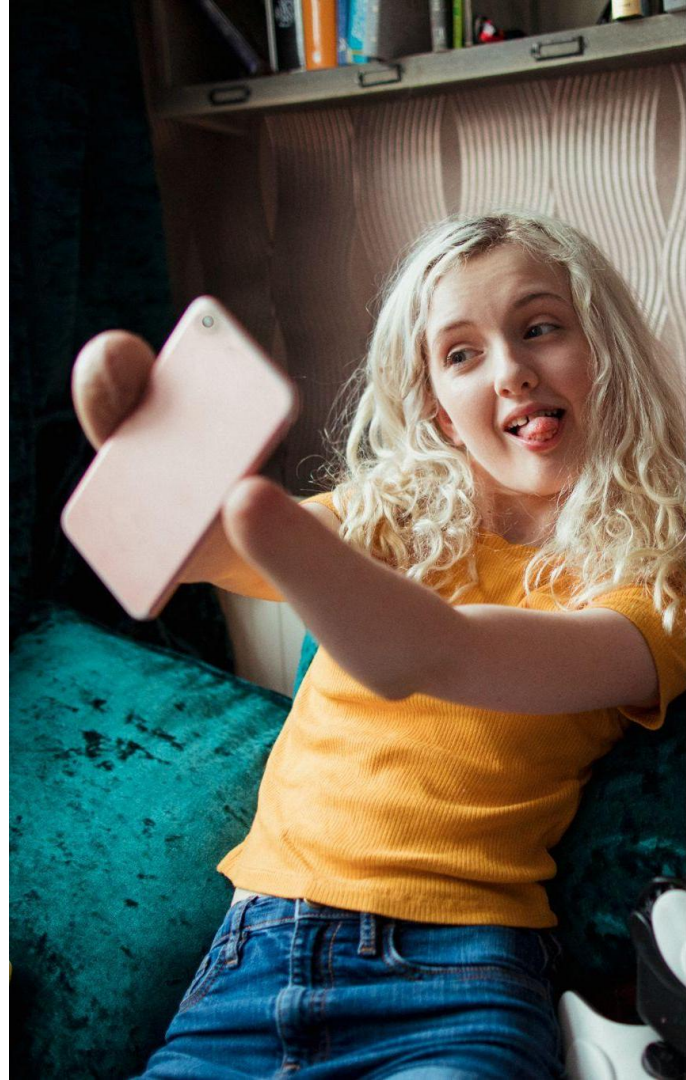
- DOJ investigations triggered by complaints
- Private litigation

# If it's digital and public-facing, it counts.

**What:** Websites, mobile apps, social media, documents, forms, portals, multimedia, and other digital content.

**Where:** Anything digital and public-facing (with very few exceptions).

**Who:** Any public entity — cities, townships, public schools, libraries, transit, utilities, police, fire, EMS, etc.



*"Regardless of the compliance dates, covered entities have an ongoing obligation to ensure that their services, programs, and activities offered using web content and mobile apps are accessible to individuals with disabilities in accordance with their existing obligations under title II of the ADA."*

-U.S. DOJ, IFR, Section II

# A Longer Runway Is Not a Safe Harbor

In April 2026, the DOJ issued an Interim Final Rule extending compliance deadlines by one year — and signaled it may conduct additional review of the requirements.

April 2027

Serving populations  
50k or more

April 2028

Serving populations  
under 50k

[Title II cases before deadline](#)



# Even Newer Developments

## NFB Sues DOJ and HHS

Both extensions targeted on the same grounds:

- IFRs issued without public notice and comment
- No genuine emergency justification
- Arbitrary and capricious rulemaking

NFB is asking the court to vacate both rules and restore the original deadlines.

# What Does WCAG 2.1 AA Mean?

Title II points to a specific technical standard:

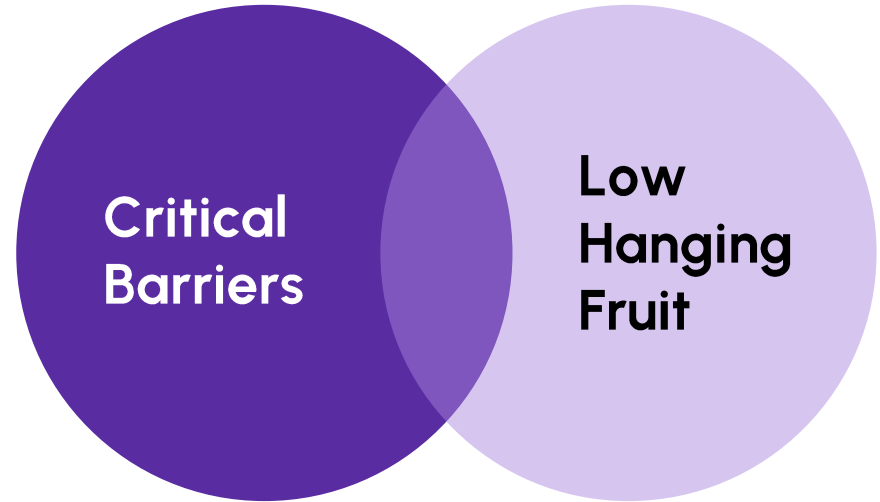
Web Content Accessibility Guidelines (WCAG) 2.1, Level AA

- Internationally recognized benchmark for digital accessibility
- Multiple versions exist (2.0, 2.1, 2.2) — the rule requires 2.1 specifically
- Multiple conformance levels exist (A, AA, AAA), and each one builds on the previous
- 50 success criteria across levels A and AA
- Organized into four areas — Perceivable, Operable, Understandable, Robust (POUR)

At its core, WCAG 2.1 AA asks: ***are users receiving equal or equivalent information and experiences regardless of ability?***

# Making Sense of Subjective Criteria

WCAG success criteria are specific, but there can be many right (and wrong) answers for each criterion. Applying them requires technical judgment beyond a simple checklist.



# Beyond WCAG



## **Accessibility Statement**

Posted publicly and demonstrates good faith effort (best practice).



## **Feedback Mechanism**

A way for the public to report accessibility issues and demonstrates good faith effort (best practice).



## **ADA Coordinator + Formal Grievance Procedure**

Entities with 50+ employees must designate a coordinator and maintain a formal complaint process (required).



## **Documents**

PDFs and other electronic documents are covered, with specific rules around archiving and pre-existing content (required).

## Good Faith Effort

Municipalities actively working toward compliance are in a meaningfully different position than those doing nothing. Good faith looks like:

- Documented audits and remediation plans/action
- Addressing complaints promptly and transparently
- Training staff and updating procurement processes
- Prioritizing critical issues

Good faith effort must be demonstrated, not claimed.

## Undue Burden

An undue burden determination doesn't eliminate a public entity's obligation to provide access. It only recognizes that a particular method of providing access would create a significant financial or administrative burden.

Because the entity remains responsible for ensuring access through other means, the ADA requires the decision to be formally approved and documented by the head of the entity or their designee rather than being made informally by an employee or vendor.

An underwater photograph showing sunlight filtering through the water surface, creating a shimmering, dappled light effect. The water is a deep blue color, and the light rays create a textured, almost ethereal atmosphere. The sun's rays are visible as bright, irregular shapes that change and move as the water ripples.

# Slow Leaks

# Automated Testing Only

Many vendors claim to "monitor for accessibility issues," but what they often mean is automated scanning alone.

**Automated tools catch an estimated 20–30% of WCAG issues.** The rest require manual testing by a human expert, including:

- Whether content makes logical sense to a screen reader user
- Keyboard navigation that works in practice, not just technically
- Cognitive barriers — confusing language, inconsistent layouts, disorienting flows



# Overlay Widgets

These tools claim to automatically fix accessibility issues by adding scripts to web pages. You've seen them — the little icon of an outstretched person in a circle hovering in the corner of a web page.

In practice they don't fix underlying code, often introduce new barriers for assistive technology users, and have been cited in roughly [25% of all digital accessibility lawsuits in 2024](#).

Courts have not found overlays to be a defensible compliance strategy, and most vendors conveniently don't mention that.

*Note: The same can be true for AI-powered PDF remediation tools, which also promise fully-automated fixes at scale without reliable results.*





# Contracts & Procurement

This is where attorneys can add immediate value. All contracts relating to digital services and information should address accessibility.

Common gaps include:

- No reference to WCAG 2.1 AA as the required standard
- No testing or audit requirements
- No remediation obligations or timelines
- No consequences for non-compliance
- No language requiring updates when standards change

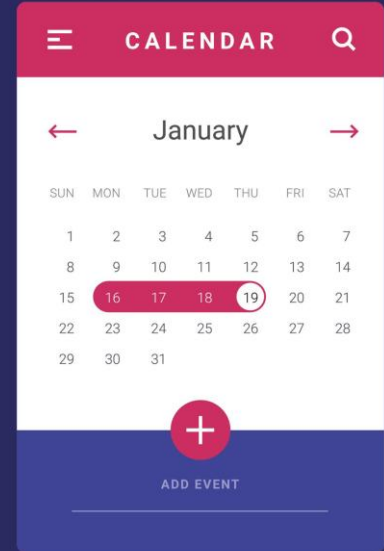
# Third Parties

Most municipalities don't realize just how many third-party tools are embedded in their digital presence, or that they're responsible for *all* of them.

This can include::

- Payment portals and permit applications
- Recreation and library systems
- Mapping tools, forms, chatbots, and embedded widgets

If a third party tool creates barriers to public services or information, the responsibility sits with the municipality, not the vendor.



# No Planned Budget

Municipalities routinely budget for liability exposure (e.g., insurance premiums, settlement reserves, workers' compensation funds). Digital accessibility compliance deserves the same treatment.

Attorneys advising on risk mitigation have an opportunity to help clients get ahead of this before the deadline forces reactive spending.

**A real compliance budget that covers audits, remediation, staff training, and ongoing monitoring is almost always less expensive than the alternative.**





# Taking Claims At Face Value

In practice, city staff often understand that accessibility is an ongoing practice, but many assume their web vendor has it covered.

This is frequently a knowledge gap as much as a vendor problem. The risk is the same either way: no one is verifying the claim.

# 4 Leaks You Can "STOP" Now



S

**Statement** – Ensure your city publishes an accessibility statement and feedback mechanism.



T

**Third-Parties & Contracts** – Require accessibility obligations in your city's vendor contracts and procurement, including digital portals, payment systems, and embedded third-party tools.



O

**Overlay Widgets** – Check if your city is using these by looking for a hovering icon of a "person in a circle" on their site. These tools patch over problems without fixing them, and create legal exposure.



P

**PDFs** – Ensure public-facing PDFs are accessible – including yours.



**Then search for hidden leaks!**

# Get In Touch



**LinkedIn**

[www.linkedin.com/in/hannahwagner008](http://www.linkedin.com/in/hannahwagner008)



**Website**

<https://www.commonthreadsdigital.com>



**Email**

[hannah@commonthreadsdigital.com](mailto:hannah@commonthreadsdigital.com)



**Telephone**

989-533-1714



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