



QUICK GUIDE TO ADA COMPLIANCE

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What is the Americans with Disabilities Act (ADA)?

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In 1990, The Americans with Disabilities Act went into effect to prohibit discrimination in all areas of public life, including schools, transportation, jobs and other areas open to the general public. Specifically, Title III of the act applies to “public accommodations” and prohibits “discrimination on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodation of any place of public accommodation.” Initially, the act was intended to require reasonable accommodations at physical locations not knowing what impacts and opportunities the internet could bring. Organizations and advocates for those with disabilities say that websites and virtual assets must be accessible to those with disabilities because they’re essential to everyday life. Websites can now be considered public places in addition to physical buildings, storefronts and other brick-and-mortar locations.

Case Law

There have been multiple cases across the U.S. where plaintiffs have sued businesses of all sizes (including insurance agencies) for not having websites accessible and usable for people with a disability. The landmark case, *Juan Carlos Gil v. Winn-Dixie Stores, Inc.* in 2017 took place in a Florida District Court. The court ruled in favor of the plaintiff saying that the store’s website was in violation of Title III of the ADA. The ruling referenced the Web Content Accessibility Guidelines (WCAG) as the required level of compliance. At the end of 2017 a similar ruling was made in New York.

Since there are no written rules from the government on website standards or requirements for ADA accessibility, issue experts and trade groups believe there needs to be clarity of what “website accessibility” means. The only guidelines currently in place are case law. It is also very challenging to predict how a website will work with a user’s assistive technology.

Source: “If Your Website Isn’t ADA-Compliant, You’re More Likely to Face Litigation”, Craig Guillot, Risk & Insurance, December 9, 2018.

What Does ADA Compliance Mean for a Website?

Without rules or regulations on what “accessibility” means for a website, ADA website compliance isn’t as

clear-cut as most regulations. Based on case law, the Web Content Accessibility Guidelines (WCAG) are the standards websites must follow.

WCAG 2.0 outlines four principles:

- **Perceivable** – your content must be usable by all. Do your videos have captions? Does your site have appropriate color contrast and text that is large enough to read?
- **Operable** – Remember, not everyone can use a mouse. Can a user navigate your site by using a keyboard?
- **Understandable** – All pages should function in the same manner. Is your website logical and consistent?
- **Robust** – Alt tags, descriptions, ID’s, etc. all are necessary for current web standards. Does your website use standard HTML tags?

A Complete Overview of Web Content Accessibility Guidelines (WCAG) can be found [here](#).

In short, remember the following points on your website:

- Make sure all text is readable and active. Can you highlight text with your mouse? If so, great! Most likely a screen-reader can pick it up. If not, it’s likely part of an image and that text must be part of the alternative text on the image.
- On images, include alt text, title text, and descriptions so a text reader is able to describe the image.
- Include ID tags on links to describe what the page is linking to
- If uploading PDFs, make sure the PDF includes “active” or “live” text (for example, you can highlight the text on the PDF when it is active)
- If you have videos, make sure subtitles are included/available to easily turn on
- If you have links, include ID text to describe the link if it is not obvious with the link text or the text that is hyperlinked.
- Each webpage has titles to describe the topic
- Use an ADA tool or widget on your website

Insurance Coverage for ADA Accessibility Lawsuits

An ISO CGL policy is not likely to provide coverage due to the absence of tangible bodily injury.

A more likely place to have coverage would be under an [EPLI policy](#) with coverage for third-party violations.



The cost to bring the website up to the required level of compliance as well as any other injunctive relief would not be covered. A few key definitions and terms could make a difference for coverage.

1. Under employment practices violations, this should be defined to include both actual and alleged discrimination.
2. Third-party violations are included.
3. The broader definition of "Loss", the better.

Source: Marsh Insights – Americans with Disabilities Act: Insurance Coverage Considerations, Marsh, August 2017.

Source: Protecting Your Website with an EPL Insurance Policy, Tech Risk Report, Perkins Coie, February 14, 2019

Resources

To assist with ADA compliance, here are some online solutions:

ADA Accessibility Widgets:

Neilson Marketing Services: A complete widget with numerous tools and functionalities to help make your website accessible and usable for all visitors. Visit www.iiaw.com and look in the top left corner to see this widget in action!

Cost: \$150 setup fee + \$348-\$1068 annual fee based on number of webpages

UserWay: UserWay is a free web accessibility widget with only some of the features that Neilson Marketing Services ADA Widget offers. It's a quick process to get the code for your widget.

Cost: Free

ADA Accessibility Testing:

Google Lighthouse: this one is for the tech-savvy individuals. A tool for web developers can also be used to test accessibility and website performance. Run a test on each page of your website to see your accessibility score and receive a free report with recommendations. Given the tool is more complex, you may want to read through [this guide](#).

To run Google Lighthouse, you must use the Chrome browser, right click on the page, select "inspect" and in the side window that appears, click the two arrows on the top bar and select "audits".

Cost: Free

Web Accessibility by Level Access: You are able to test 5 pages for free with this website and get a free report with recommendations or you can add the "ACCESS Assistant Community" extension on your Chrome browser. You are also able to upgrade to a full site scan for a fee.

Cost: 5 pages for free, additional pages for a fee. Add the Chrome extension for free!

Questions?

View ACT's (IIABA) ADA Resource Page [here](#). You can also reach out to IIAW by emailing us at info@iiaw.com or by calling us at (608) 256-4429.

This ADA Compliance Guide has been prepared for IIAW member agencies. By providing this guide to member agencies, IIAW does not intend to provide, and is not providing, a legal opinion or legal advice on managing your website or adherence to ADA requirements. Moreover, this guide is for the intended use of IIAW member agencies and should not be recreated or distributed outside the member agency without the written consent of the IIAW.



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