



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Is Your Website Required to Be Accessible to Disabled Individuals? Recent Case Says “Yes”

Title III of the Americans with Disabilities Act (“ADA”) requires organizations to make reasonable modifications to policies, practices, and procedures in order to make their goods and services available to people with disabilities. While this provision has historically been applied to physical “brick-and-mortar” facilities, some courts, including the 9th Circuit Court of Appeals in a recent case,¹ and the United States Department of Justice (“DOJ”) are now interpreting the provision as applicable to commercial websites that offer goods or services for sale, including nonprofit websites where goods or services are sold. In addition, private attorneys have been filing lawsuits to challenge the lack of accessibility of commercial websites.

Although the DOJ had previously indicated it would issue regulations clarifying the requirements for accessibility of websites in 2018, it has not yet done so. In the meantime, if your organization is selling goods or services through a website, you should do a thorough analysis in cooperation with your website developer or IT provider to determine whether the website is accessible to individuals with disabilities. If you determine that providing such accessibility would alter the nature of the goods and services being offered, such as requiring the sale of a different product or service than the one you sell, or create an undue burden for the organization, then you are not required to make the website accessible.

In determining whether a website is accessible, or what can be done to make it accessible, many experts, including the 9th Circuit Court of Appeals, have recognized the standards developed by the World Wide Web Consortium’s (W3C) Web Content Accessibility Guidelines 2.0 Level AA (WCAG 2.0 AA) for web developers. These standards, which can be accessed by clicking this link: <https://www.w3.org/WAI/intro/wcag>, provide guidance for ensuring that websites comply with ADA accessibility standards.

The requirements of the guidelines include (1) adding text equivalents to every image on the site, including text identifying individuals pictured; (2) adding webpage headings for easier navigation; (3) ensuring all functions can be performed on a keyboard; (4) ensuring any documents, including fillable forms or articles, are uploaded in a text rather than a .pdf format or providing a text alternative to any .pdf; (5) allowing users to control the font size and colors on the site through browser settings or operating systems; (6) ensuring image maps are accessible; (7) providing captions or a transcript and audio description for any videos posted on the website; (8) avoiding or minimizing blinking and flashing features; and (9) ensuring that the time out feature on any pages on the website can be turned off.

Because of the significant increase in litigation in recent years related to accessibility of websites and the new case law indicating that courts may be moving in the direction of requiring accessibility, organizations should adhere as closely as possible to these guidelines. Please consult your PBPA attorney if you have any questions about website accessibility.

Dated: 8/15/19

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¹ Robles v. Domino’s Pizza, LLC, 9th Circuit Court of Appeals, March 2019