

GOOD COUNSEL: IS YOUR WEBSITE OPEN TO ALL?



BY JULIA JUDISH / APR 1, 2018

(PeopleImages/Getty Images)

Following accessibility guidelines reduces legal risk and brings membership rewards.

As public accommodations under the Americans with Disabilities Act (ADA), associations must provide people with disabilities “full and equal enjoyment” of the services and advantages they offer. Although associations often consider this obligation primarily in the context of their events, accessibility also applies to another core aspect of association activities: their websites.

According to 2010 census data, 8.1 million Americans have a vision impairment that qualifies as a disability. Other impairments may also affect a person’s ability to access website content. Color blindness can affect readability. Hearing impairments create a need for transcripts or captioning of audio content. Dexterity impairments can make it difficult to navigate a website with a mouse. Web accessibility techniques make websites more inclusive for users with disabilities.

Voluntary standards developed by the Web Accessibility Initiative of the nonprofit World Wide Web Consortium (W3C) include detailed technical specifications. W3C’s Web Content Accessibility Guidelines,

known as WCAG 2.0, provide testable criteria to measure whether a website meets each guideline in four areas:

1. It's perceivable. Users can perceive the information and use the site by employing their available senses, such as through text alternatives for nontext content.

2. It's operable. Users can navigate the website using assistive technology, such as screen readers, screen magnifiers, or voice recognition software. The site may use adaptive strategies, such as allowing users to resize fonts, reduce mouse speeds, or enable captions for audio content.

3. It's understandable. Both the navigation and the content are easily understood.

4. It's robust. The website is designed to be compatible with changes in technology.

The U.S. Department of Justice has consistently taken the view that the ADA's accessibility requirements apply to the websites of public accommodations. The Obama Administration solicited public comment on proposed regulations in this area, but the Trump Administration formally withdrew the proposed rulemaking in December 2017. Despite the uncertainty about exactly what the ADA requires, legal challenges to inaccessible websites are rising. One study reported that, from January 2015 to October 2016 alone, at least 244 lawsuits were filed in federal court over website accessibility.

From a risk-management standpoint, associations should review their websites to improve accessibility wherever possible. It's also smart membership strategy: Website accessibility is critical to ensuring that all members and prospective members have full access to the association.