

## DOJ Takes Flexible Position on Website Accessibility Requirements

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Most websites for housing providers and other businesses should be accessible to individuals with disabilities. But how is this enforced? On September 25, 2018, the U.S. Department of Justice issued a [letter](#) to a member of the U.S. House of Representatives in which it took the position that “noncompliance with a voluntary technical standard for website accessibility does not necessarily indicate noncompliance with the ADA.” The DOJ’s position, significantly, does not require conformance with the voluntary Web Content Accessibility Guidelines (WCAG) 2.0 to comply with the ADA in all instances. The DOJ expressly allows for flexibility in how individuals with disabilities are provided access to digital and online content, but does not provide guidance in the implementation of such flexibility.

The DOJ’s letter responds to a June 2018 inquiry from members of the House of Representatives from both parties, which asked the DOJ to “state publicly that private legal action under the ADA with respect to websites is unfair and violates basic due process principles” absent clear guidance from the DOJ on website accessibility. In its response, the DOJ noted that for more than 20 years, the DOJ has interpreted the ADA to apply to websites of places of public accommodation. The DOJ’s response also clarified that the absence of a specific regulation does not mean that websites are not subject to the ADA’s accessibility requirements. The DOJ indicated in its letter a willingness to work with Congress on legislative action to address the increased website accessibility litigation risk faced by businesses.

The flexible approach to website accessibility expressed by the DOJ provides businesses with additional opportunities to review ADA accessibility compliance programs, as well as responses to increased litigation risk regarding the accessibility of websites.

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