

OFFICE OF THE GOVERNOR

Governor's Office of Information Technology

TECHNOLOGY ACCESSIBILITY RULES

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11.1 Authority

The Chief Information Officer in the Office of Information Technology is authorized by the provisions of section 24-37.5-106 (4), C.R.S. and section 24-85-103, C.R.S. to establish rules regarding accessibility standards for an individual with a disability for information technology systems employed by state agencies.

The rules are intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq., C.R.S. (the "APA").

11.2 Scope and Purpose

- A. The purpose of these rules is to define the accessibility technical standards and compliance parameters for individuals with a disability for information

technology systems. The reason for the rules is to improve the accessibility and usability of government information technology products and services in Colorado. The standards apply to all information and communication technology (ICT), which includes hardware and software, that is both public-facing and internal-facing, that is procured, developed, maintained, or used by public entities and state agencies.

- B. This information and communication technology (ICT) includes but is not limited to websites, applications, kiosks, digital signage, digital documents, video, audio, and third-party tools that are owned or controlled by the public entity.
- C. Where components of information and communication technology (ICT) are hardware and transmit information to a user or have a user interface, such components shall conform to the standards.
- D. Compliance with these rules does not necessarily ensure compliance with other laws, rules, and regulations. Public entities that are subject to the Americans with Disabilities Act as well as other state and federal disability discrimination laws must be aware of the requirements of all applicable laws and must comply with these laws and their implementing regulations.

11.3 Applicability

These rules and regulations apply to any Colorado state government, or any department, agency, or other instrumentality of a state government. Agency or state agency includes any board, bureau, commission, department, institution, division, section, or officer of the state. Section 24-34-802(1)(c), C.R.S. specifies that the accessibility standards for individuals with a disability as established by these rules also apply to public entities as defined in section 24-34-301, C.R.S., including any local government, department, agency, special district, or any other instrumentality of a local government. Public entities must fully comply with the standards established pursuant to section 24-85-103(2.5), C.R.S. on or before July 1, 2024. These rules do not require a public entity to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial, technical, or administrative burden.

11.4 Definitions

Accessible or accessibility: has the same meaning as defined in §24-85-102(1.5), C.R.S., which is perceivable, operable, understandable, and robust digital content that reasonably enables an individual with a disability to access the same information, engage in the same interactions, and enjoy the same services offered to other individuals, with the same privacy, independence, and ease of use as exists for individuals without a disability.

Conforming alternate version: has the same meaning as defined in the Web Content Accessibility Guidelines (WCAG), which is a version that

- A. conforms at the designated level, and
- B. provides all of the same information and functionality in the same human language, and
- C. is as up to date as the non-conforming content, and
- D. for which at least one of the following is true:
 - 1. the conforming version can be reached from the non-conforming page via an accessibility-supported mechanism, or
 - 2. the non-conforming version can only be reached from the conforming version, or
 - 3. the non-conforming version can only be reached from a conforming page that also provides a mechanism to reach the conforming version

Hardware: a tangible device, piece of equipment, or physical component of ICT, such as telephones, computers, multifunction copy machines, and keyboards.

Information and communication technology (ICT): Information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include, but are not limited to: computers and peripheral equipment; information kiosks and transaction machines; telecommunications equipment; customer premises equipment; multifunction office machines; software; applications; Web sites; videos; and, electronic documents. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, Heating, Ventilation, and Air Conditioning (HVAC) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation and are not considered information technology. However, if the embedded information technology has an externally available web or computer interface, that interface is considered ICT.

Public entity: has the same meaning as defined in §24-34-301, C.R.S., which is (a) Any state or local government; or (b) Any department, agency, special district, or other instrumentality of a state or local government.

Reasonable accommodation: has the same meaning as defined in Title I of the Americans with Disabilities Act (ADA), 42 U.S.C. §12101, et seq., and may include:

- A. making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
- B. job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

Reasonable modification: a modification in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Single digital product: a single digital asset or a collection of digital assets that share a common purpose, intended to support a program or service, created by the same author, group, or organization, including:

- A. Electronic communications
- B. Digital documents like PDFs and graphics
- C. Mobile applications
- D. Desktop applications
- E. Websites
- F. Digital kiosks
- G. Input devices
- H. Digital video files
- I. Audio recordings

Technical standards: as used in these rules, technical standards refers to the standards for conformance in section 11.5 Technical Standards for Technology Accessibility.

Undue burden: an action that requires significant financial or administrative difficulty or expense. In determining whether an action, conformance to the accessibility standards, or a reasonable accommodation or modification would impose an undue burden, the public entity shall consider all resources available to the program or component for which the ICT is being procured, developed, maintained, or used.

Web Content Accessibility Guidelines (WCAG): a single shared standard for web content accessibility that meets the needs of individuals, organizations, and governments internationally, as published by the World Wide Web Consortium (W3C). (<https://www.w3.org/WAI/standards-guidelines/wcag>)

11.5 Technical Standards for Technology Accessibility

ICT must conform with the following to the extent that it would not require a public entity to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial, technical, or administrative burden:

- A. All ICT must meet W3C WCAG 2.1 guidelines conformance levels A and AA, as published on Sep. 21, 2023, not including any later amendments or versions, hereby incorporated by reference and available from the Office of Information Technology during regular business hours or at <https://www.w3.org/TR/WCAG21/> by July 1, 2024.
 - 1. Beginning on October 5, 2025, all ICT must meet W3C WCAG 2.2 guidelines conformance levels A and AA.
 - 2. For future updates to W3C WCAG guidelines, all ICT must meet conformance levels A and AA of the most current non-draft version of the guidelines within two (2) years of the date of release.
- B. Note that ICT may also need to meet:, as issued on Jan. 22, 2018, not including any later amendments or versions, hereby incorporated by reference and available from the Office of Information Technology during regular business hours or at <https://www.access-board.gov/ict/#chapter-4-hardware>

1. The technical standards contained in US Section 508 of the Rehabilitation Act of 1973 Chapter 3: Functional Performance Criteria
2. The technical standards contained in US Section 508 of the Rehabilitation Act of 1973 Chapter 4: Hardware
3. The technical standards contained in US Section 508 of the Rehabilitation act of 1973 Chapter 6: Support Documentation and Services

11.6 Technology Accessibility Transition Plan

- A. Each public entity shall develop a technology accessibility transition plan. There is no mandatory accessibility transition plan template. Optional examples of a transition plan template include: [W3C WCAG Maturity Model](#) or [State IT Accessibility Planning Template](#).
- B. The technology accessibility transition plan shall include, at a minimum:
 1. Annual status updates demonstrating progress on advancing the transition plan
 2. Prioritization of ICT according to community impact and strategic impact including the following categories. Consider how the ICT will impact the public entity and its users, including aspects such as legal requirements, importance to the program, service, or activity, user impact, and usage metrics.
 - a) Priority 1: high community impact and high strategic impact
 - b) Priority 2: high community impact and low strategic impact
 - c) Priority 3: low community impact and high strategic impact
 - d) Priority 4: low community impact and low strategic impact
 3. The steps the public entity is taking to remove accessibility barriers in their ICT
 - a) Priority 1 ICT shall conform with the technical standards at the earliest time that does not present an undue financial, technical, or administrative burden.
 4. Timelines which clearly communicate when inaccessible ICT will be addressed and the plan for providing reasonable accommodation and modification in the interim

5. Policies for a regular cadence of testing and remediation of ICT
6. A process in which customers can report inaccessible ICT or request an accommodation or modification for inaccessible ICT
 - a) A service level agreement for the response time to requests
 - b) Those who are responsible for responding to accessibility requests are trained on how to respond to those requests.
7. A notice, prominently and directly linked from the public entity's website or other prominent location in the ICT, instructing how to request reasonable accommodations or modifications or to report inaccessible ICT. The notice shall provide more than one method to request accessible information, which could include an accessible form to submit feedback, an email address, or a toll-free phone number (with TTY), to contact personnel knowledgeable about the accessibility of the ICT.

11.7 Compliance

- A. A public entity is in compliance with these rules for ICT that does not fully conform with the technical standards if the ICT, either in and of itself or with a reasonable accommodation or modification, does not prevent an individual with a disability from accessing or engaging in the same or substantially equivalent information, interactions, and transactions, and enjoying the same services, programs, and activities that the public entity offers through its ICT to those without relevant disabilities, with substantially equivalent ease of use.
- B. A public entity is in compliance with these rules for ICT that does not fully conform with the technical standards if the public entity publicly publishes, annually updates, and makes meaningful progress on implementing the technology accessibility plan, while also providing reasonable accommodations or modifications for ICT that does not fully conform with the technical standards.

11.8 Best Meets

- A. Where ICT fully conforming to the technical standards is not commercially available, the public entity shall procure the ICT that best meets the technical standards consistent with the public entity's business needs.
- B. The responsible public entity official shall document in writing:
 - 1. The non-availability of conforming ICT, including a description of market research performed and which provisions cannot be met, and
 - 2. The basis for determining that the ICT to be procured best meets the requirements in the technical standards consistent with the public entity's business needs.
- C. Where ICT that fully conforms to the technical standards is not commercially available, the public entity shall provide individuals with disabilities access to and use of information and data by an alternative means that meets identified needs.

11.9 Conforming Alternate Versions

A public entity may use conforming alternate versions of ICT to comply with these rules only where it is not possible to make the ICT directly accessible due to technical, financial, or legal limitations. In general, conforming alternate versions should be avoided.

11.10 Equivalent Facilitation

Nothing in this rule prevents the use of designs, methods, or techniques as alternatives to those prescribed, provided that the alternative designs, methods, or techniques result in substantially equivalent or greater accessibility and usability of the ICT.

11.11 Undue Burden or Fundamental Alteration

- A. Where a public entity can demonstrate that full conformance with the technical standards would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial, technical, or administrative burdens, conformance is required to the extent that it does not result in a fundamental alteration or undue financial and administrative burdens.

- B. In those circumstances where personnel of the public entity believe that conformance with the standards would fundamentally alter the service, program, or activity or would result in undue financial, technical, or administrative burdens, a public entity has the burden of proving that compliance would result in such alteration or burdens.
 - 1. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or their designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.
- C. If an action would result in such an alteration or such burdens, a public entity shall take any other reasonable action, including providing reasonable accommodations or modifications that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.
- D. Undue financial, technical, or administrative burden may be demonstrated when, depending on the type of barrier, at least one of the following applies:
 - 1. The resources of the program, service, or activity are not readily and legally available or the use of such funds would fundamentally alter the nature of the program, service, or activity;
 - 2. Contractual constraints prevent the modification of the program, service, or activity; or
 - 3. When the necessary auxiliary aids or services are not feasibly available.
- E. The responsible public entity official shall document in writing the basis for determining that conformance to requirements in the technical standards constitute an undue burden on the agency, or would result in a fundamental alteration in the nature of the ICT. The documentation shall include an explanation of why and to what extent conformance with the applicable requirements would create an undue burden or result in a fundamental alteration in the nature of the ICT.
- F. ICT or portions of ICT for which full conformance with the technical standards may potentially create an undue burden for public entities could include but is not limited to the following examples:

1. Archived ICT that is maintained for reference, research, or recordkeeping and is not altered or updated after the date of archiving, and is generally organized or stored in a dedicated area identified as archives
2. Pre-existing conventional internal or external electronic documents, presentations, spreadsheets, emails, and pre-existing time-based media such as audio, video, or audio and video unless such documents or time-based media are currently used by members of the public to apply for, gain access to, or participate in a public entity's services, programs, or activities
3. Content contributed by a third party not under the control of the public entity, that is available on the public entity's website or applications
4. Third-party content, over which the public entity has no control or responsibility, linked from a public entity's website or applications
5. Course content available on a public entity's password-protected or otherwise secured website for admitted students enrolled in a specific course offered by a public postsecondary institution
6. Class or course content available on a public entity's password-protected or otherwise secured website for students enrolled, or parents of students enrolled, in a specific class or course at a public elementary or secondary school
7. Individualized, password-protected, conventional electronic documents that are: About a specific individual, their property, or their account; and Password-protected or otherwise secured
8. Complex and/or atypical images and diagrams to the extent that they cannot be made fully accessible, which could include items such as: blueprints, architectural drawings, technical drawings, site plans, development plans, annexation and plat maps, handwritten documents, medical imaging and health care test results, and any other image where there is no logical methodology to create an alternate description that will make the image understandable to assistive technology
9. Mapping applications and visualizations to the extent that they cannot be made fully accessible

10. Reproductions that cannot be made fully accessible of items in heritage collections, which are goods that are preserved for an historical, artistic, archaeological, aesthetic, scientific, or technical interest
11. Only one vendor solution (sole source) is available
12. ICT for which a contract is currently in place that cannot be modified or terminated without undue financial, technical, or administrative burden

11.12 Reasonable Accommodations or Modifications

- A. In general and in accordance with the [Americans with Disabilities Act \(ADA\) Titles I and II \(42 U.S.C. 12101 et seq.\)](#), if an individual with a disability, on the basis of disability, cannot access or does not have equal access to a program, service, or activity through a public entity's ICT, the public entity shall make reasonable accommodations or modifications for alternative access when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making such modifications would fundamentally alter the nature of the service, program, or activity or present an undue financial, technical, or administrative burden.
- B. Each public entity shall post a notice prominently and directly linked from the public entity's website or other prominent location in the ICT describing the methods to request accommodations or modifications for ICT.
- C. A public entity may not provide services or benefits to individuals with disabilities through programs that are separate or different, unless the separate programs are necessary to ensure that services are equally effective.
- D. A public entity cannot require an individual with a disability to pay to cover the cost of measures, such as providing auxiliary aids or barrier removal, that are required to provide that individual with nondiscriminatory treatment.
- E. Examples of auxiliary aids and services that may be provided:
 1. Qualified interpreters
 2. Note takers
 3. Screen readers
 4. Computer Aided Real-Time Transcription (CART) services
 5. Video interpreting services
 6. Assistive listening headsets

7. Television captioning and decoders
8. Telecommunications devices for deaf persons (TDDs)
9. Videotext displays, readers, taped texts, audio recordings, and written materials in Braille, large print, or electronic formats.

11.13 Complaints

- A. An individual with a disability or their authorized representative may file a complaint with the public entity responsible for the ICT that does not comply with these rules.
- B. Each public entity is required to establish and publish a clearly defined and documented complaint process including the following components:
 1. How and where a complaint may be filed
 2. Who has responsibility to process complaints
 3. How complaints are processed
 4. Notification to the complainant that the complaint was received within 10 business days and if additional information is required
 5. Time frames for processing and responding to complaints
- C. If the public entity determines that it does not have responsibility for the ICT, it shall promptly notify the complainant.
- D. Complaint Response
 1. A complaint response shall:
 - a) Be in writing and agreed upon by both parties. The complainant's consent to the plan shall not be unreasonably withheld.
 - b) Address each cited complaint.
 - c) Specify the corrective or remedial action to be taken, if any, within a stated reasonable period of time to occur.
 - d) Include additional modifications offered during the stated period of time for correction or remediation, if appropriate.
 2. Response or resolution of a complaint may be used towards mitigation or reduction of the remedies in a civil suit.
 3. At any time, the complainant may file a civil suit pursuant to section 24-34-802, C.R.S., whether or not the public entity accepts or resolves the complaint. An individual is not required to file a complaint with the

public entity first. However, it is often more efficient to resolve issues at the public entity level.