COLORADO
Governor's Office of Information Technology
Serving People. Serving Colorado.

Operations Memorandum

Accessibility

Executive Summary

The Governor's Office of Information Technology (OIT) is committed to making meaningful changes that ensure state services are inclusive and accessible to all Coloradans. In alignment with Governor Polis' focus on equity, diversity and inclusion— a "Colorado for All" way of governing and decision making, House Bill 21-1110 strengthened state discrimination laws for individuals with disabilities and provided additional responsibility for OIT to improve access to state agency digital content — which is any content that exists in digital form.

While requirements surrounding information technology accessibility have existed in statute for decades, prior to the passage of House Bill 21-1110, there was no formal process for establishing or enforcing accessibility standards. Not only did the legislation broaden information technology access to be more inclusive of all individuals with a disability, it provided a means to enforce these standards by making it a state civil rights violation for a government agency to exclude people with disabilities from receiving services or benefits because of lack of accessibility.

OIT's role

OIT has statutory authority in C.R.S. § 24-85-101, *et seq.*, to establish statewide information technology accessibility standards, to receive and review accessibility plans from state agencies, and to work with state agencies to create an implementation methodology. OIT's work also includes aligning with executive branch state agencies to provide training, support and resources for accessibility.

OIT doesn't support local governments beyond establishing the accessibility standards, and cannot meet with local government teams one-on-one (local governments should contact CCI, CML or SDA for questions and support).

Accessibility standards

As the minimum standard of accessibility, OIT has adopted Web Content Accessibility Guidelines 2.1 AA (WCAG 2.1 AA Guidelines, W3C). This includes technology accessibility standards for people using adaptive technology who are low vision, blind, hearing impaired or deaf, and people with cognitive disabilities, seizures or other physical challenges that create limitations. Any Colorado government entity that does not meet OIT's web accessibility standards could be subject to injunctive relief, monetary damages, attorney's fees, or a fine of $3,500 payable to the plaintiff, who must be someone from the disability community.

How to get started with accessibility compliance

House Bill 21-1110 places responsibility for compliance with OIT accessibility standards on both digital and online platform providers and content owners. All Colorado government entities must be compliant with OIT's accessibility standards by July 1, 2024. OIT will provide resources, training on the state standards, and tools to assist with accessibility, but state agencies and local governments will need to implement the changes and improvements to their digital content.

Platform providers, and state and local government content owners should refer to the following FAQs and OIT's Accessibility Guide to get started.

Sign up for OIT's State of Colorado Accessibility Newsletter

FAQs

Q. What is the meaning of House Bill 21-1110, Colorado Laws for Persons with Disabilities?

A. Under the Colorado Anti-Discrimination Act (CADA), it is unlawful for any person to discriminate against an individual with a disability. House Bill 21-1110 expands this prohibition by defining discrimination to include two standards:

(1) It is discrimination to exclude an individual with a disability from participation in or being denied the benefits of services, programs, or activities provided by any Colorado government entity.

(2) It is discrimination for any Colorado government entity to fail to develop an accessibility plan by July 1, 2022, and to fail to fully comply with accessibility standards developed by OIT by July 1, 2024.

The new language specifically applies to accessibility of government information technology and expands the state's accessibility standards to include all individuals with disabilities, as defined by the ADA, instead of just people with vision problems.

Q. What happens if a state or local government entity does not comply?

A. Any individual with a disability that is subject to discrimination may bring a civil action against the Colorado government entity. Any Colorado government entity that engages in such discrimination could be subject to the following penalties:

- a court order requiring compliance;
- monetary damages;
- attorney's fees; or
- a statutory fine of $3,500 payable to each plaintiff for each violation, who must be someone from the disability community. For example, after the July 1, 2024, deadline, if an individual tries to use a website that is not accessible, the government entity may be subject to a $3,500 statutory fine that is payable to the individual for each violation.

Liability for noncompliant content lies with the Colorado government entity that manages the content. Liability for noncompliance of the platform hosting the content lies with the Colorado government entity that manages the platform.

Q. What technology does House Bill 21-1110 and OIT's accessibility standards apply to?

A. It relates to ***all*** technology, hardware, and software, that is both public-facing and internal-facing. This includes any technology provided by or procured by a government entity that is used by the public or used by a government entity employee. This technology includes but is not limited to websites, applications, kiosks, digital signage, documents, video, audio and third-party tools.

Q. What are my responsibilities as a state agency?

A. State agencies are required to:

- Submit a written plan to OIT as part of the agency's annual IT Roadmap for implementing the accessibility standards. The first plan is due July 1, 2022.
- By July 1, 2024, implement the sections of the plan related to accessibility standards for individuals with a disability and be in full compliance with WCAG 2.1 AA Guidelines in the creation and publication of any online content and materials; including, but not limited to text, links, images, forms, PDFs, documents and embedded third-party applications.
- Develop any proposed budget requests, if needed, to ensure compliance by July 1, 2024.

Q. What are my responsibilities as a local government entity?

A. Local governments are required to:

- By July 1, 2024, develop an accessibility plan using the accessibility standards developed by OIT and be in full compliance with WCAG 2.1 AA Guidelines in the creation and publication of any online content and materials; including, but not limited to text, links, images, forms, PDFs, documents, and embedded third-party applications.
- Local government entities are not required to submit an accessibility plan to OIT.

Q. What are OIT's responsibilities under House Bill 21-1110?

A. Under House Bill 21-1110, OIT is responsible for:

- establishing the accessibility standards;
- receiving and reviewing state agency written accessibility plans;
- promoting and monitoring the accessibility standards in the state's information technology infrastructure, including architecture; and
- collaborating with state agencies on the implementation of accessibility plans.

OIT does not support local governments beyond establishing the accessibility standards, and cannot meet with local government teams one-on-one. Local governments should contact CCI, CML or SDA for questions and support.

Q. Who is not required to submit a written accessibility plan to OIT?

A. Although all Colorado government entities are required to develop an accessibility plan, only state agencies, as defined in CRS § 24-37.5-102, are required to ***submit*** a written accessibility plan to OIT. The following entities are not required to submit a written accessibility plan to OIT: state-supported institutions of higher education, the Department of Education, the Department of Law, Judicial or Legislative departments, the Department of State, and the Department of Treasury. Local governments are also not required to submit a written accessibility plan to OIT.

Q. Who is exempt from complying with OIT's accessibility standards?

A. There are no exemptions. All Colorado government entities are required to comply with OIT's technology accessibility standards. Every person who contributes content to a website or application; develops or manages IT products and services; and every government entity employee who creates and shares emails, documents or presentations is responsible for making it accessible to everyone.

Q. My department does not manage websites or systems. Do our documents and processes need to be accessible even though that is not mentioned in the law?

A. The accessibility requirements of House Bill 21-1110 are specific to digital content, which is any content that exists in digital form. Accessibility is defined as "perceivable, operable, and understandable digital content that 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." Given this definition, the statute applies to more than web-based content.

Q. Does House Bill 21-1110 include hardware?

A. The WCAG Guidelines and the requirements of House Bill 21-1110 are specific to digital content; however, the bill states that applications, programs, and underlying operating systems must permit the installation, effective use of, and be compatible with software and peripheral devices that provide accessibility to an individual with a disability. While not specifically addressed in House Bill 21-1110, accessibility standards for hardware are established in OIT's Technical Standard (TS-OEA-001) and Section 508 of the U.S. Rehabilitation Act of 1973.