



MEMORANDUM

To: Presidents, State-operated Campuses, Presidents, Community Colleges, Statutory College Contacts

From: Cassandra Carudo, Staff Attorney – Student Affairs
SUNY Office of General Counsel

Date: July 24, 2025 (accurate as of this date)

Re: Web Accessibility Regulations Guidance

This guidance is accurate as of July 24, 2025, and should only be relied upon at this point in time. Please contact your counsel for updated information.

Introduction

On June 20, 2019, the State University of New York’s (“SUNY”) Board of Trustees adopted [resolution No. 2019-50](#) to approve the [SUNY Electronic and Information Technology \(“EIT”\) Accessibility Policy](#) and [Final Report and Recommendations of the Electronic and Information Technology \(EIT\) Accessibility Committee, May 2019](#).

Since that time, significant developments have occurred at both the federal and state levels regarding digital accessibility standards. In particular:

- The New York State Legislature enacted Executive Law § 170-f, imposing specific web accessibility requirements for websites provided under state contracts, including those developed by contractors, vendors, or consultants for public entities.
- The U.S. Department of Justice (“DOJ”) has finalized a rule under Title II of the Americans with Disabilities Act (“ADA”), establishing technical standards for web content and mobile applications offered by public entities, including SUNY.
- The U.S. Department of Health and Human Services (“HHS”) issued regulations under Section 504 of the Rehabilitation Act, imposing WCAG compliance requirements on web content, mobile applications, and kiosks for recipients of HHS funding only, which includes certain SUNY programs and services.

This memorandum summarizes those requirements and provides updated guidance for SUNY campuses.

NEW YORK STATE EXECUTIVE LAW SECTION 170-F

“Each contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a state contract shall be required to conform any website provided by such contractor, subcontractor, vendor, consultant, or person in relation to and for the purpose

of the provision of such services to the most current version of the Web Content Accessibility Guidelines adopted by the World Wide Web Consortium for accessibility, or any successor standards.”¹

This 2023 law applies when entities, including SUNY, enter into or utilize a state contract for services and the contractor provides a website as part of that work. In those cases, the contractor is responsible for making sure the site complies with the most current version of the Web Content Accessibility Guidelines (WCAG) published by the World Wide Web Consortium. As of the date of this memo, that means WCAG 2.2.²

Note: This requirement does not apply to all SUNY websites, only those provided by a vendor under a state contract. Internally developed websites—or those unrelated to contracted services—are not covered by this statute.

While this statute governs websites procured under state contracts, SUNY Campuses must also consider broader federal requirements for digital content and mobile applications, as discussed below. *If you have any questions on what is considered a website, please reach out to the Office of General Counsel.*

TITLE II OF THE AMERICANS WITH DISABILITIES ACT WEB ACCESSIBILITY REGULATIONS

I. *Effective Date and Scope*

On April 24, 2024, DOJ finalized a rule under Title II of the ADA that establishes technical standards for web content and mobile applications offered by public entities.³ SUNY Campuses are subject to Title II and the full compliance deadline for these regulations is on or before April 24, 2026.

The rule applies to all web content and mobile applications that SUNY provides directly or makes available through contractual, licensing, or other arrangements. This includes both public-facing and internal-facing digital resources.

II. *Standards for Compliance*

Under the DOJ rule, SUNY campuses must ensure their web content and mobile applications conform to WCAG 2.1, Level A and Level AA success criteria and conformance requirements.⁴

Note: While NY Executive Law § 170-f requires conformance with WCAG 2.2 for state-procured websites, DOJ’s rule sets the federal baseline at WCAG 2.1 for broader digital content.

III. *Regulatory Definitions of Common Terms*⁵

¹ Website accessibility; contractors and vendors, N.Y. Exec. Law § 170-f.

² WCAG 2.2 is the latest standard published by the World Wide Web Consortium as of this memorandum’s date. World Wide Web Consortium (W3C), Web Content Accessibility Guidelines (WCAG) 2.2, W3C Recommendation, 5 Oct. 2023, <https://www.w3.org/TR/WCAG22/>.

³ 28 C.F.R. pt. 35 (2024); *see also* Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities, 89 Fed. Reg. 30408 (Apr. 24, 2024) (hereinafter “2024 Web Accessibility Regulations”).

⁴ Title II of the Americans with Disabilities Act, Subpart H – Web and Mobile Accessibility, 28 C.F.R. § 35.200 Requirements for Web and Mobile accessibility.

⁵ Title II of the Americans with Disabilities Act, Subpart A – General, 28 C.F.R. 35.104 Definitions.

- **Web Content** includes any material accessible via a web browser, such as documents, videos, images, and content within Learning Management Systems (“LMS”). This excludes desktop software applications.
- **Mobile Applications** are software applications downloaded to and designed for use on mobile devices such as smartphones and tablets.
- **Contractual, Licensing, or Other Arrangements:** If SUNY arranges for a third party to host or deliver digital content, SUNY remains responsible for the accessibility of that content.⁶

IV. *Five Exceptions under DOJ Regulations*⁷

The DOJ rule includes five specific exceptions where WCAG 2.1 compliance is not required under federal law. However, these exceptions do not apply to websites governed by NY Executive Law § 170-f.

1. Archived Web Content

Archived web content is exempt if *all* four of the following apply:

- Created before April 24, 2026;
- Reproduces paper documents or physical media created before April 24, 2026;
- Maintained solely for reference, research, or recordkeeping; and,
- Unchanged since archiving and stored in a clearly designated archive area.

Example: Scanned PDFs of campus maps from 1975 posted online for historical research purposes may qualify as archived content. Conversely, current policy documents posted online for informational purposes generally would not qualify for this exception.

2. Preexisting Conventional Electronic Documents

Conventional electronic documents (e.g., PDFs, Word, PowerPoint, Excel) posted prior to April 24, 2026 are exempt unless they are used to apply for, gain access to, or participate in services, programs, or activities.

Example: Pre-2026 PDF reports on past campus statistics may fall under this exception. However, accurate and still-relevant campus maps posted before that date generally would not.

3. Third-Party Content

Materials posted directly by third parties are exempt unless posted under a contractual, licensing, or other arrangement with SUNY.

Example: Posts on campus message boards may fall within this exception. However, vendor-provided payment portals integrated into SUNY websites would remain SUNY’s responsibility.

SUNY Campuses should remember they cannot delegate ADA compliance to third parties. SUNY remains responsible for accessible digital content arranged through outside vendors.

⁶ *Id.* § 35.201.

⁷ *Id.* § 35.201.

4. Individualized, Password-Protected Documents

Conventional electronic documents (e.g., PDFs, Word, PowerPoint, Excel) are exempt if they:

- Relate solely to a specific individual, property, or account; and
- Are password-protected or otherwise secured.

However, SUNY must provide accessible versions of such documents when requested by individuals with disabilities.

Example: A student's individual tuition bill accessible only through a secure login qualifies for this exception. A general fee schedule would not.

5. Preexisting Social Media Posts

Social media content posted prior to April 24, 2026, is exempt from the DOJ's web accessibility requirements unless an individual requests it in an accessible format. However, any social media posts made on or after April 24, 2026, must comply with WCAG 2.1 standards.

V. Conforming Alternate Versions

DOJ permits the use of conforming alternate versions only where it is technically or legally impossible to make primary content accessible. It discourages widespread reliance on alternate versions and emphasizes that the primary web page or mobile app should itself be accessible wherever possible.⁸ This effectively limits the use of Equally Effective Alternate Access Plans ("EEAAPs") as a primary compliance strategy.

Example: An alternate accessible page may be permissible if a third-party tool fundamentally cannot meet accessibility standards.

VI. Equivalent Facilitation

SUNY Campuses may use alternative technologies or methods that provide equal or greater accessibility than those specified in WCAG 2.1.

Example: Adopting future WCAG standards exceeding current requirements would satisfy DOJ's rule. The rule itself only creates the minimum requirement(s).

VII. Fundamental Alteration and Undue Burden

Compliance is not required to the extent it would fundamentally alter a service, program, or activity, or impose undue financial or administrative burdens. However:

- The determination must be made by the campus head or their designee, considering all resources available for the program or service.
- The decision must be documented in writing, including the reasons for concluding that compliance would result in a fundamental alteration or undue burden.

⁸ *Id.* § 35.204.

- Even where full compliance is not possible, the campus must take steps to ensure that individuals with disabilities receive the benefits or services to the maximum extent possible.⁹

Note: DOJ has stated that modifying web content or mobile apps generally does not constitute a fundamental alteration. Each determination must be fact specific.

VIII. *Minimal Impact Standard*

Under DOJ’s rule, minor technical noncompliance does not constitute a violation if individuals with disabilities can access web content or mobile apps with substantially equivalent timeliness, privacy, independence, and ease of use. More specifically, the individuals should be able to:

- Access the same information as individuals without disabilities;
- Engage in the same interactions;
- Conduct the same transactions; and,
- Participate in or benefit from the same services, programs, and activities;

—all in a manner substantially equivalent as to timeliness, privacy, independence, and ease of use.¹⁰

HHS WEB ACCESSIBILITY REQUIREMENTS

SUNY Campuses receiving funding from the U.S. Department of Health and Human Services (“HHS”) are subject to additional regulations requiring web content, mobile applications, and kiosks to conform to WCAG 2.1, Level A and AA, effective May 11, 2026.¹¹

HHS Section 504 regulations mirror DOJ’s rule, including:

- The same five exceptions;
- Equivalent facilitation options; and,
- The same standards for fundamental alteration or undue burden.

Note: “Kiosk” for the purposes of these regulations is defined as:

[S]elf-service transaction machines made available by recipients at set physical locations for the independent use of patients or program participants in health and human service programs or activities. They often consist of a screen and an input device—either a keyboard, touch screen, or similar device—onto which the program participant independently types in or otherwise enters information. In health and human service programs, recipients often make kiosks available so that patients or program participants can check in, provide information for the receipt of services, procure services, have their vital signs taken, or perform other similar actions.¹²

⁹ *Id.* § 35.164.

¹⁰ 28 C.F.R. § 35.202(c) (2024); 89 Fed. Reg. at 30416–17.

¹¹ 45 C.F.R. Part 92 (2024); *see also* Nondiscrimination on the Basis of Disability in Health and Human Service Programs or Activities, 89 Fed. Reg. 40876, 40899–40901 (May 10, 2024) (hereinafter “HHS Section 504 Rule”).

¹² *Id.* at § 92.4.

SUNY Campuses should evaluate whether any of their health-related services, clinics, or research programs trigger HHS compliance obligations. If you have any questions about whether your campus is subject to these HHS regulations, please contact the Office of General Counsel.

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COMPARATIVE SUMMARY TABLE

Requirement	NY Exec. Law §170-f	DOJ Title II Rule	HHS Section 504 Rule
SCOPE	Websites procured under NY state contracts	All web content and mobile apps of public entities	Web, mobile, and kiosks if HHS-funded
STANDARD	WCAG (currently 2.2)	WCAG 2.1 Level A & AA	WCAG 2.1 Level A & AA
EFFECTIVE DATE FOR SUNY	In effect since 2023	April 24, 2026	May 11, 2026
EXCEPTIONS	None	Five specific exceptions	Same five exceptions as DOJ rule
FUNDAMENTAL ALTERATION/UNDUE BURDEN DEFENSE	Not specified	Available	Available

RECOMMENDED ACTION STEPS

SUNY campuses are strongly encouraged to:

- Inventory all web content, mobile apps, and kiosks.
- Assess current digital content for WCAG 2.1 Level A and AA compliance.
- Identify vendor-provided systems requiring review or updates.
- Update procurement processes to include digital accessibility requirements.
- Review and archive eligible legacy content, labeling archives clearly.
- Document any determinations of fundamental alteration or undue burden in writing.
- Monitor DOJ and HHS guidance for further developments.
- Consult with campus counsel regarding specific compliance questions.

ADDITIONAL RESOURCES

- On April 8, 2024: ADA.gov released a [Fact Sheet titled “New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments.”](#)
- On January 8, 2025: ADA.gov also [released guidance titled “State and Local Governments: First Steps Toward Complying with the Americans with Disabilities Act Title II Web and Mobile Application Accessibility Rule.”](#) which outlines clear steps that campuses can take in order to comply with these regulations, and includes helpful examples.
- January 16, 2025: ADA.gov [released a webinar titled “Americans with Disabilities Act Title II Web & Mobile Application Accessibility Rule”](#) that is one hour in duration and summarizes the regulations.

For further assistance, please contact Cassandra Carudo, Staff Attorney, SUNY Office of General Counsel, at Cassandra.Carudo@suny.edu.

FREQUENTLY ASKED QUESTIONS

Q: What Does the DOJ Actually Mean by “through contractual, licensing, or other arrangements?”

A: As an example under this regulation, if a SUNY Campus arranges for a third party to post educational content on its behalf, the Campus is responsible for ensuring the accessibility of the content.¹³ “Makes available,” under this regulation includes situations where a Campus relies on a third party to operate or furnish content.¹⁴ As a result, this rule applies not only to the Campus’s own web content and mobile apps, but also to any content made available through third parties by the Campus.¹⁵

DOJ clarified that even where a vendor is used to create and host an institution’s web content, such content is covered by these regulations.¹⁶

In order to comply with the regulation, SUNY campuses will have to assess current and prospective vendors based on compliance with these new accessibility requirements in mind.¹⁷

Q: Can You Provide Additional Details and/or Examples of the Exceptions for Compliance with WCAG 2.1?

A: Yes.

Exception 1: Archived Web Content

Example 1: A building on a SUNY Campus was moving to a different building after April 24, 2026, and in the move, the Campus finds a box of physical documents in storage that has hundreds of paper files from 1975 and earlier which are old campus maps that are no longer accurate.¹⁸ If the Campus decides to scan all of these documents and save them as PDFs to make available online, designated clearly as being archived, then these PDF documents would meet the first part of the definition of “archived web content” under this exception because the underlying documents were all created in 1975 or earlier.¹⁹ It would also meet the second requirement, because they would be utilized only for recordkeeping. It would also meet the third requirement, because these maps are being kept in their original condition and will not be changed in the future. This lastly meets the final requirement, because these maps are being stored in an area clearly identified as being archived. *This would fall under this exception.*

Example 2: If a SUNY Campus posts web content of current policies or procedures, then that web content is unlikely to be covered by this exception because the content is notifying the public of their ongoing rights/responsibilities and thus would not be used only for reference, research, or recordkeeping.²⁰ *This would not fall under this exception.*

Exception 2: Preexisting conventional electronic documents

¹³ 2024 Web Accessibility Regulations, 89 Fed. Reg. 31345.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 31346.

¹⁸ *See id.* at 31338-39.

¹⁹ *See id.* at 31339.

²⁰ *Id.* at 31340.

Example 1: If, prior to April 24, 2026, a SUNY Campus’s website contains multiple out of date PDF reports on local COVID-19 statistics, those reports will not generally have to meet WCAG 2.1 standards under this regulation.²¹ *This would fall under this exception.*

Example 2: If, prior to April 24, 2026, a SUNY Campus has PDFs of campus maps that were posted, but are accurate and usable today, these would generally not meet this exception. *This would not fall under this exception.*

Exception 3: Content Posted by a Third Party

Example 1: Members of the campus community or even the general public post on all SUNY Campuses’ online message boards, wikis, social media, or other web forms, which are generally intended to promote the sharing of information and ideas. Many of these platforms are unmonitored. The public may post at any time of day or night, and the public entity will generally not have much control over the content posted, and many of these posts likely date back many years. *This exception would apply in this instance.*

Example 2: A SUNY Campus posts third party content on their websites like calendars, scheduling tools, maps, reservation systems, and payment systems that were created by an outside technology company. *This exception would not apply in this instance.*

Exception 4: Individualized, password protected or otherwise secured conventional electronic documents

Example 1: A SUNY Campus may provide a website where students can log in and view a PDF version of their latest bill. This conventional electronic document (PDF) is only relevant to an individual member of the community and is password protected.²² *This exception would apply in this instance.*

Example 2: A PDF notice that explains the breakdown of fees that all students are charged would not fall under this exception. This type of general notice would likewise not be subject to this exception even if it were to be attached to or sent with an individualized letter, like a bill, that does address the specific student’s circumstances.²³ *This exception would not apply in this instance.*

Exception 5: Preexisting social media posts

Example 1: A SUNY campus published a Facebook post in 2025 containing images without alternative text. Under the rule, the post does not have to be retrofitted for compliance unless a user requests access to its content in an accessible format.

Example 2: A SUNY campus tweets a video in May 2026 without captions. Because the post is after April 24, 2026, it must meet WCAG 2.1 requirements, including providing captions for video content.

Q: What are *Conforming Alternate Versions*?

A: Under WCAG, a “conforming alternate version...is a separate web page that, among other things, is accessible, up to date, contains the same information and functionality as the inaccessible web page, and can be reached via a conforming page or an accessibility-supported mechanism.”²⁴

Q: When is a Campus Allowed to Use *Conforming Alternate Versions*?

A: It is important to note that a campus is not allowed to adopt conforming alternate versions whenever they

²¹ *Id.* at 31364.

²² *Id.* at 31378.

²³ *Id.* at 31379.

²⁴ 2024 Web Accessibility Regulations, 89 Fed. Reg. 31382.

deem it to be appropriate. SUNY Campuses can only utilize conforming alternate versions of web content “where it is not possible to make web content directly accessible due to technical limitations (e.g., technology is not yet capable of being made accessible) or legal limitations (e.g. web content that cannot be changed due to legal reasons).”²⁵

The DOJ believes conforming alternate versions should be used rarely. However, this section does not prevent a public entity from providing alternate versions of web pages in addition to their WCAG 2.1 Level AA compliant main page to provide users with certain types of disabilities a better experience.²⁶

SUNY Campuses may use conforming alternate versions, as defined under WCAG 2.1, in order to comply with this regulation. However, a campus can only do so where it is *impossible* to make that web content directly accessible due to technical or legal limitations.²⁷

Reminder: As noted above, this portion of the regulation effectively makes EEAAPs (“Equally Effective Alternate Access Plans”) unusable because alternate versions of a web page or mobile app are prohibited.

Q: *What is another example of an Equivalent Facilitation?*

A: *Example:* A SUNY campus develops a new navigation interface using simplified icons and haptic feedback for individuals with cognitive disabilities. Even though this design differs from the specific navigation structures described in WCAG 2.1, if testing demonstrates that users with disabilities can navigate content more independently and efficiently, this could qualify as equivalent facilitation.

Q: *What Happens if a Campus Believes They Have Identified a Fundamental Alteration?*

A: Compliance with WCAG 2.1 Level AA is not required under Title II of the ADA to the extent that such conformance would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, compliance with this part “is required to the extent that it does not result in a fundamental alteration or undue financial and administrative burdens.”²⁸

In the rare case that a Campus uses the fundamental alteration defense as indicated in the regulation, then the Campus has the burden of proving that compliance with this regulation would result in such an alteration or burden and documenting it accordingly.

Q: *Who makes the determination if there is a fundamental alteration?*

A: The decision of a fundamental alteration must be made by the head of the Campus (or their designee) after considering all resources for funding and operation of the program, activity, or service, and this decision must be accompanied by a written statement of the reasons for reaching this conclusion.²⁹ Please be sure to consult with your campus counsel if you plan to use the fundamental alteration defense.

Q: *What happens next if a campus determines there is a fundamental alteration?*

A: If it is determined that compliance would result in a fundamental alteration, then the Campus must take action to ensure that individuals with disabilities are able to receive the benefits or services provided by the Campus to the fullest extent possible.³⁰

²⁵ *Id.*

²⁶ *Id.*

²⁷ Title II of the Americans with Disabilities Act, Subpart H – Web and Mobile Accessibility, 28 C.F.R. 35.202.

²⁸ *Id.* at § 35.204.

²⁹ *Id.*

³⁰ *Id.*

Note: DOJ states it would not be a fundamental alteration to modify web content or mobile apps to comply with this regulation, but this is always a fact-specific inquiry.³¹

Q: What Happens if a SUNY Campus is not 100% fully compliant with the Regulations?

A: Under the DOJ’s rule, minor technical noncompliance does not automatically mean a campus is violating the law. A SUNY campus may still be considered compliant if it can demonstrate that any noncompliance has only a minimal impact on individuals with disabilities.

Specifically, a campus must show that individuals with disabilities can still:

- (1) Access the same information as individuals without disabilities; **AND**
- (2) Engage in the same interactions as individuals without disabilities; **AND**
- (3) Conduct the same transactions as individuals without disabilities; **AND**
- (4) Otherwise participate in or benefit from the same services, programs, and activities as individuals without disabilities.³²

All these activities must be possible with substantially equivalent timeliness, privacy, independence, and ease of use. In short, the regulation focuses on whether individuals with disabilities can effectively use the web content or mobile apps, even if minor technical issues exist.

Example: A campus website has minor color contrast issues in a single chart, but all text content is fully readable by screen readers, and users with disabilities can access services without delays or barriers. This minor issue likely would not result in a finding of noncompliance under DOJ’s minimal impact standard.

For further assistance, please contact Cassandra Carudo, Staff Attorney, SUNY Office of General Counsel, at Cassandra.Carudo@suny.edu.

Copy: Chief Academic Officers, Chief Information Officers, Chief Diversity Officers, Chief Financial Officers, EIT Accessibility Officers, Directors of Online Learning, Disability Services Officers, Procurement Officers, Library Leaders, OER Champions, University Faculty Senate/Faculty Council of Community Colleges

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³¹ 2024 Web Accessibility Regulations, 89 Fed. Reg. 31385.

³² Title II of the Americans with Disabilities Act, Subpart H – Web and Mobile Accessibility, 28 C.F.R. 35.205.