CONSORTIUM FOR CONSTITUENTS WITH DISABILITIES

June 22, 2026

Harmeet Dhillon
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

Re: RIN 1190-AA82 Extension of Compliance Dates for Nondiscrimination on the Basis of Disability; Accessibility of Web Content and Mobile Applications of Recipients of Departmental Financial Assistance: Interim Final Rule

Dear Ms. Dhillon:

The undersigned members and allies of the Consortium for Constituents with Disabilities (CCD) Rights and Technology Task Forces write to express our strong opposition to the Interim Final Rule (IFR) published by the Department of Justice (Department) extending the compliance dates for the 2024 Nondiscrimination on the Basis of Disability; Accessibility of Web Content and Mobile Applications of Recipients of Departmental Financial Assistance Final Rule (2024 Final Rule). CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

Delaying the compliance dates by a full year on the eve of the compliance date for large public entities without first seeking public comment is arbitrary and capricious because: (1) the delay is based on information that was already fully considered in the Department's 2024 Final Rule, (2) the delay is based on factual errors and unfounded assumptions, (3) the Interim Final Rule fails to consider the significant harms to people with disabilities, and (4) the Interim Final Rule's economic analysis contains significant omissions.

The IFR is Based on Concerns that Were Already Fully Considered and Addressed in the 2024 Final Rule.

None of the concerns that the Department now cites as the basis for its IFR are new. All of these concerns were raised by public entities and addressed in the Department's 2024 Final Rule. By revisiting the same arguments about timing that the

Department already addressed and, without more, using them to come out a different way, the Department creates uncertainty and confusion. Far from creating "greater predictability and certainty"[1] as the Department claims, a rule that changes as soon as the compliance date arrives undermines public confidence and *eliminates* certainty and clarity.

The Department now cites comments from a handful of commenters raising vague concerns about limited resources and lack of expertise. All of these concerns were raised previously, including by most of the same commenters cited in the IFR. The Department engaged in an extensive, painstaking analysis to decide on the compliance dates in its 2024 Final Rule. It considered longer and shorter compliance periods, and examined the costs and benefits of a variety of different options. It considered the very factors that the Department cites now and took them into account in setting the compliance dates of two years for larger public entities and three years for smaller public entities. There is nothing about the restating of these identical concerns now that justifies a different conclusion.

While the Department claims it is newly considering these issues because its 2024 Final Rule overestimated the pace of technology and underestimated resource challenges,[2] it relies on bare assertions from commenters in response to a deregulatory solicitation that do not show the Department misjudged these factors in 2024. The 2024 Final Rule's compliance dates were not based on assumptions that by 2026, generative AI or other technology would "reliably automate the remediation of inaccessible content at scale."[3] In fact, it did not discuss AI at all and did not expect fully automated remediation. The fact that fully automated remediation is not yet possible is not a reason to extend the compliance dates.

Nor did the 2024 Final Rule assume that public entities would face no resource constraints. Indeed, public entities *always* face resource constraints, and the ADA and the 2024 Final Rule already take that into account. Consistent with the ADA, the 2024 Final Rule does not require public entities to take steps that would impose an undue financial or administrative burden or fundamentally alter a program, service, or activity. The Department now claims that litigation defenses should not guide the Department's decisions in setting compliance deadlines.[4] But these are not merely litigation defenses; they are limitations on the obligations imposed by the Rule and by the ADA

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[1] 91 Fed. Reg. at 20906.
[2] 91 Fed. Reg. at 20907. As the Department acknowledges, some of the public entities submitting recent comments requested technical assistance rather than an extension of the compliance deadline. A change in the compliance date does little to address the need for technical assistance.
[3] *Id*.
[4] *Id.*

itself. The Department cannot simply ignore them and cite unspecified cost concerns as a basis for a significant change to the Rule.

The IFR is Based on Incorrect Analysis of the 2024 Final Rule

The Department's decision to extend the compliance dates is premised on key factual errors and unfounded assumptions. It wrongly states that the accessibility standards imposed by the 2024 Final Rule may change at any time, and assumes without evidence that people would assume an exception clearly rejected by the 2024 Final Rule was in effect and that international actors are likely to file suits to enforce the rule.

The 2024 Final Rule's Standards Are Not Subject to Change at Any Time

The Department claims multiple times that the WCAG 2.1 Level AA Standards on which the 2024 Final Rule is based are "untenable, dynamic technical standards" that "may change at any time without notice."[5] This is false. The 2024 Final Rule plainly states that the Department is implementing the June 2018 version of WCAG 2.1 AA.[6] The rule explicitly defines "WCAG 2.1" in 28 C.F.R. 35.104 as meaning: "the Web Content Accessibility Guidelines (''WCAG'') 2.1, W3C Recommendation 05 June 2018, https://www.w3.org/TR/2018/RECWCAG21-20180605/ and https:// perma.cc/UB8A–GG2F."[7] The Permalink to the WCAG 2.1 standards included in the 2024 Final Rule links to information that will never be deleted or modified. It provides permanent access to the standards required for compliance, making the Department's concerns of "dynamic" webpages unfounded.

The Department additionally states that any resources published on the World Wide Web Consortium (W3C) website assisting entities to comply with WCAG 2.1 "can be changed outside of the Department's rulemaking processes."[8] However, resources provided by W3C are merely a technical assistance resource for entities provided by a third party outside of the government. Technical assistance materials from inside or outside of the government are not subject to the notice and comment process under the APA[9] and do not change the substance of the standards, as they are nonbinding advice for public entities.

There is No Basis to Assume Confusion About Removal of the Education

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[5] *Id*. at 20906.
[6] 29 Fed. Reg. at 31321, 31336, 31337.
[7] 89 Fed. Reg. at 31337. This Permalink is also included at 31336 and 31343.
[8] 91 Fed. Reg. at 20907.
[9] 5 U.S.C. § 553.

Exceptions

The Department provides no basis for its contention that the removal in the 2024 Final Rule of exceptions for certain educational content identified in the proposed rule "could lead to confusion . . . and require additional time for covered entities to understand their compliance obligations."[10] The Department provides no evidence suggesting that there is in fact confusion on this point. In fact, a significant number of the commenters on which the Department relies are educational entities and their comments indicate they are well aware that these exceptions have been removed.

Moreover, while the IFR says that extending the compliance dates will give these entities "time to assess the substance of the 2024 final rule,"[11] it offers no explanation of why two years has been insufficient time to discover that the educational exceptions were removed. Indeed, rulemaking would become untenable if every change from a proposed rule to a final rule were cause to reopen a rulemaking and allow additional time for compliance.

The Department also provides no basis for why educational entities need an additional opportunity to comment because "they did not anticipate [the rule's] application to them given the exceptions contained in the 2023 NPRM."[12] The entire point of a *proposed* rule with notice and comment is that the public is invited to comment on the proposal. Expecting the public to anticipate that the proposed rule will be finalized as is regardless of public comment would undermine the entire rulemaking process. Further, the evidence suggests public entities were well aware that the educational exceptions might be removed. Numerous public entities commented on the educational exceptions in response to the proposed rule, and many of those comments were extensive. In fact, the Department did more than simply put out the proposal for comment; it asked the public for responses to nineteen specific questions relating to the educational exceptions alone.[13]

There is No Basis to Assume Interference by International Actors

Nor does there appear to be any basis for the Department's contention that additional time is needed because "litigation may be funded by international actors to intentionally disrupt government operations."[14] The Department offers no evidence for this claim, and of the many ADA lawsuits that have been brought challenging public entities' use of inaccessible website content in their programs, services, and activities,

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[10] 91 Fed. Reg. at 20908.
[11] *Id.*
[12] 91 Fed. Reg. at 20908.
[13] 88 Fed. Reg. at 51971-51976.
[14] 91 Fed. Reg. at 20906

we are aware of none brought by international actors seeking to disrupt government operations.

The IFR Fails to Consider the Harms to People with Disabilities of Extending the Compliance Dates

The IFR is also arbitrary and capricious because it fails to consider the harms to people with disabilities of extending the compliance deadlines by a full year. The finalization of the 2024 Final Rule represented a major milestone for individuals with disabilities as it greatly improves access to services that have been historically inaccessible. CCD explained in comments responding to the 2023 Notice of Proposed Rulemaking[15] that a prompt compliance date is critical to ensure that people with disabilities can access vital government services. And the Department observed in its 2024 Final Rule that due to the prior absence of government standards for accessibility of web content and mobile apps, people with disabilities have experienced widespread challenges accessing critical public services such as paying taxes online, finding voter information, and education in a public school.

While the Department relies extensively on a handful of comments from public entities with vague assertions about resource constraints, it all but ignores the staggering harms to people with disabilities, who continue to experience barriers in accessing core government services. The Department spends only a single sentence describing those harms, and dramatically understates them:

> *The Department recognizes, for example, that the one-year extension will mean that an individual with a disability may need to request accessible versions of certain electronic documents from a public entity and wait for those requests to be fulfilled.*[16]

This one sentence fails to capture the pervasive discrimination that people with disabilities continue to experience. It is not merely a matter of waiting for a public entity to fulfill a request. Often there is simply no mechanism to make such a request, or such requests go unheeded or unfulfilled. In many circumstances, waiting is not an option. A public school student with a disability cannot simply wait for accessible learning materials to be provided weeks or months after the materials are used in class. A person seeking to find out when her polling place closes cannot simply wait until someone responds after the fact. A person who may lose public benefits if he does not

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[15] Consortium for Constituents with Disabilities Comment Letter on Proposed Rule Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Gov't Entities (Oct. 3, 2023), https://www.c-c-d.org/fichiers/CCD-and-Friends-Comment-DOJ-Title-II-Regulation-October-2023.pdf).

[16] 91 Fed. Reg. 20908.

electronically submit a form cannot simply wait until someone responds after the form deadline has been missed.

The Department's assertion that the IFR might *benefit* disabled people by avoiding "the potential for wasted time and money in litigation"[17] is insulting, and in fact the delay of compliance dates is likely to increase rather than decrease litigation since covered entities will continue to be subject to the ADA's requirements to provide equal opportunity and accessibility but without clear standards.

The IFR Contains Serious Flaws in its Economic Analysis

The IFR's economic analysis contains important errors. First, while the Department found in its 2024 Final Rule that cost *savings* from compliance with the rule significantly *outweigh the costs* of compliance. Net annualized benefits over the first 10 years after publication of the rule totaled $1.9 billion per year using a 3 percent discount rate and $1.5 billion per year using a 7 percent discount rate.[18] Yet the IFR fails to consider the lost cost savings from compliance during the additional year, instead considering only saved costs. The Department simply states that it was "unable to quantify the impact on benefits of this one-year delay and accordingly was unable to calculate the impact on net benefits."[19] Further, the IFR's analysis fails to consider that many public entities are already complying with the 2024 Final Rule since the Department waited until the eve of the compliance date for large public entities before announcing the delay. These omissions undermine the integrity and validity of the cost benefit analysis.

We Oppose a New Substantive Rulemaking

Additionally, we are extremely concerned about the Department's plan to engage in a future rulemaking process on the substance of the 2024 Final Rule. It took 14 years from when the Department first initiated a rulemaking on web accessibility standards for the Department to issue a final rule. It would be incredibly damaging and disruptive to the lives of people with disabilities who have been waiting for years for the Rule's protections to turn around suddenly and reverse course.

The proposal to change the rule in any capacity included in the IFR will additionally disincentivize public entities from working towards compliance, as it creates massive uncertainty about what standards will ultimately apply. Many will simply wait to

[17] *Id.*
[18] 89 Fed. Reg. 31330.
[19] 91 Fed. Reg. 20911.

see what the Department issues. In the meantime, people with disabilities will continue to be denied access to vital state and local government services.

Conclusion

For the foregoing reasons, we urge the Department to rescind the IFR.

Respectfully submitted,

Access Ready, Inc.
The Advocacy Institute
Alabama Disabilities Advocacy Program
American Association of People with Disabilities
American Association on Health and Disability
American Council Of The Blind
American Council of the Blind of Ohio
American Foundation for the Blind
American Printing House for the Blind
The Arc of the United States
Association of Assistive Technology Act Programs
Autism Society of America
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Center for Public Representation
CommunicationFIRST
Council for Learning Disabilities
Council of State Administrators of Vocational Rehabilitation (CSAVR)
Deaf Equality
Disability Belongs
Disability Law Center of Alaska
Disability Law Center of Utah
Disability Rights Arizona
Disability Rights California
Disability Rights Center of Kansas
Disability Rights Connecticut
Disability Rights Education & Defense Fund
Disability Rights Florida
Disability Rights Idaho
Disability Rights Iowa
Disability Rights Louisiana

Disability Rights Maine
Disability Rights Mississippi
Disability Rights New Mexico
Disability Rights North Carolina
Disability Rights Ohio
Disability Rights Oregon
Disability Rights Pennsylvania
Disability Rights South Carolina
Disability Rights Washington
Epilepsy Foundation of America
The Fire From Her Crown
Getting Back Up
Greater Cincinnati Chapter of American Council of the Blind Ohio
Greenleaf Job Training Services
Kelley Vision and Technology Services
Kentucky Protection and Advocacy
Lakeshore Foundation
Learning Disabilities Association of America
Linking Employment Abilities & Potential (LEAP)
Minnesota Disability Law Center
Muscular Dystrophy Association
National Association of Councils on Developmental Disabilities
National Association of the Deaf
National Disability Rights Network (NDRN)
National Health Law Program
National PLACE
National Rehabilitation Association
Ohio Association of People Supporting Employment First
Ohio Olmstead Task Force
Paralyzed Veterans of America
Partnership for Inclusive Disaster Strategies
Perkins School for the Blind
Prevent Blindness
Sight Unseen LlC
TASH
VisionServe Alliance
Vispero