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ADA Website Compliance: What Employers Need to Know

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**THE ^{HL}HOSPITALITY LAW
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Website Accessibility



A cityscape with various buildings and greenery is visible in the background. A prominent brown horizontal bar with a black border is overlaid on the image, containing the title text.

ADA and Website Accessibility

1. Does your website need to be accessible for users with visual, hearing and physical impairments?
 - Slightly more complicated, but yes
2. Does your website need to provide information regarding various accessibility features at your resort?
 - Yes

Must my website be accessible for those hard of hearing and seeing?

- Most Likely, Yes! Tension exists in courts and DOJ whether Title III applies to websites
 - Courts have ruled on both sides of the issue
 - No universally recognized standard for achieving website accessibility
 - Trend is for courts to find that websites are places of public accommodation
 - This, even in the absence of guidelines for private companies' websites, the trend is to comply with the gold standard -- WCAG 2.1.



A cityscape with various buildings and greenery is visible in the background. A prominent brown banner with a black border is overlaid on the image, containing the title 'Multiple Lawsuits'.

Multiple Lawsuits

- Some properties have been sued multiple times by different plaintiffs represented by different lawyers
- This has occurred in both website accessibility contexts, even though the properties had previously agreed in earlier settlements to ensure that their websites are accessible to the visually or mobility impaired.
- Thus, it is critical to take action as soon as possible to ensure your websites are in compliance with the ADA.

Common Website Accessibility Issues

- Users with visual impairments:
 - Menus in PDF Format
 - Pictures, symbols, maps, diagrams, etc. with no written descriptions
 - “Click here” links
 - Text as an image file (as opposed to html)
- Users with hearing impairments:
 - Video and audio files with no captioning
- Users with physical impairments:
 - Navigating website without a mouse or a keyboard



A background image showing a cityscape with various buildings and greenery. The buildings are in shades of blue, grey, and white, with some green trees in the foreground. The sky is clear and blue.

Commons Threads in WCAG 2.1

- Provide text alternatives for non-text content (e.g., pictures, maps)
- Provide text captions for audio content
- Avoid using color as the only means of conveying information (e.g., green means go)
- Make all functionality available from a keyboard interface (as opposed to requiring mouse “clicks” to activate links)
- Provide a way to pause or slow down “time out” features

Policy and Remediation

- Create a web accessibility policy consistent with WCAG 2.1
- Ensure training and compliance with policies



- If you do not implement certain accessibility features because they are unduly burdensome or would fundamentally alter your website, make sure to have plenty of documentation to back up that claim.
 - Heavy burden to prove this defense

Policy and Remediation

- Retain an Accessibility Consultant
 - They can help you build safeguards into your contracts to protect against client liability for inaccessible deliverables



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Hotel Accessibility Information on Website

- Hotel websites are subject to the ADA because it provides information about their goods and services to the public
 - ADA regulations - 28 CFR 36.302(e)(1)
- A public accommodation that owns, leases, or operates a place of lodging shall:
 - i. Modify its policies, practices, or procedures to ensure that individuals with disabilities **can make reservations for accessible guest rooms during the same hours and in the same manner** as individuals who do not need accessible rooms;

Accessibility Information on Website

- ii. Ensure that **accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented** and the accessible room requested is the only remaining room of that type;



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Accessibility Information on Website

- iii. Reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the **guest room requested are blocked and removed from all reservations systems;**
- iv. Guarantee that **the specific accessible guest room reserved through its reservations service is held for the reserving customer,** regardless of whether a specific room is held in response to reservations made by others;

Accessibility Information on Website

- v. **Identify and describe accessible features in the hotels** and guest rooms offered through its reservations service **in enough detail** to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs.



Accessibility Information on Website

- This final prong of the regulation is crucial and has been the subject of hundreds of lawsuits.
- Much easier logistically to bring this type of claim as opposed to more “traditional” brick and mortar claims.



A panoramic view of a city skyline with various skyscrapers and buildings, partially obscured by green trees in the foreground.

Accessibility Information on Website

- So, what is enough information?
- Due to the lack of case law, there is no bright line rule as to the amount of information that is deemed to be “sufficient.”



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Accessibility Information on Website

1. At a minimum, provide information regarding whether common areas of your hotel are accessible
2. Where should that information be provided?
 - Popular common areas
3. Are there accessible routes to get to these areas?
4. If so, describe those as well.
 - Do not provide inaccurate information!

Accessibility Information on Website

1. You also need to provide sufficient information regarding the accessibility of your rooms.



2. What does that mean?

- Bed type, number of beds, type of bathroom (roll-in shower, tub with accessible seats), non-slip grab bars, etc.

3. How should this information be provided?



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Questions?



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