



October 3, 2023

Rebecca B. Bond, Chief  
Disability Rights Section  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 440528  
Somerville, MA 02144

Re: RIN 1190-AA79

Dear Rebecca Bond,

The Vermont League of Cities and Towns (VLCT) offers the following comments regarding the US Department of Justice's Notice of Proposed Rulemaking (NPRM) "Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government Entities."

VLCT understands the importance of providing accessible web content. We believe the current proposed rule will not achieve the hoped for benefit for people with disabilities in America's rural communities. The burden it imposes is more likely to result in reduced web content availability than compliance with the proposed rule.

## About VLCT and Vermont's Local Governments

VLCT is a nonprofit, nonpartisan organization serving and strengthening Vermont local government. VLCT provides educational workshops and consulting advice for municipal officials, legislation advocacy, comprehensive insurance coverage, and a Municipal Assistance Center.

Vermont's local governments (municipalities) range in population from 3 (Town of Somerset) to 42,819 (City of Burlington) residents<sup>1</sup>. Of these:

- *56% of Vermont municipalities have populations under 1,500.* These municipalities generally have budgets of \$1 million or less. Their paid staff are an elected, part-time Town Clerk/Treasurer and 1-3 highway staff. They may have a part-time Zoning Administrator working 5-10 hours per week. Their Legislative bodies typically meet once a month. Website posting and maintenance often is completed by one or more volunteers serving on municipal committees and boards and the Town Clerk. Some of these municipalities published their first website during the Covid-19 pandemic to assist residents and businesses to access information.
- *72% of Vermont municipalities have populations under 2,500.* 2,500 is the population level at which most municipalities are likely to add a paid Town Manager or Town Administrator. This position's duties

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<sup>1</sup> Vermont Department of Health. (2020 November). *2019 Vermont Population Estimates*. Vermont Department of Health Center for Public Health Statistics. <https://www.healthvermont.gov/sites/default/files/documents/pdf/HS-STAT-2019-Population-Estimates-Bulletin.pdf>.

also may include zoning administration, health functions, or other municipal functions if the position is full time. Website posting and maintenance usually is completed by a combination of one or more volunteers serving on municipal committees and boards, the Town Clerk, and the Town Manager/Administrator.

## General Comments

- 1. Timeline for commenting on the proposed rule.** The current 60-day comment period is insufficient for rural local governments. The DOJ's proposed rule and the questions for which DOJ requested feedback suggest DOJ does not understand rural capacity disparity. Municipalities must become aware of the proposed rule, understand Web Content Accessibility Guidelines (WCAG) 2.1 requirements, understand whether/how those requirements would impact the municipality's current web content, obtain cost information requested by DOJ, and develop thoughtful feedback on the proposed rule. VLCT requests DOJ provide constituents with an additional 60 days to comment on this proposed rule.
- 2. The proposed rule assumes websites are maintained by municipal staff or contractors.** Vermont's municipalities are powered by volunteers. Websites postings and maintenance for smaller municipalities are completed by those volunteers, who may or may not understand accessibility requirements. Providing training for volunteers is substantially different than training paid professionals. It is an ongoing process and may result in non-compliance more often than with paid professionals.
- 3. Assistance the federal government could provide to reduce compliance burden.** The Minnesota Department of IT Services [Accessibility webpages](#) offer an excellent example of the types and formats of resources that the federal government could provide to make compliance less burdensome for local governments. These resources are understandable for people less knowledgeable about accessibility. The resources can be digested in small chunks. Specific items that may be helpful include.
  - Online, recorded webinars about WCAG 2.1 components and how to comply with them, including real-life examples applicable to small municipalities.
  - Online, recorded webinars about effective communication and how to achieve it, including real-life examples applicable to small municipalities.
  - Links to tools that can help achieve web accessibility without the use of consultants.
  - Sample Request for Proposal and consultant contract language to help ensure third-party software compliance.

## Specific Comments

- 1. Compliance dates.** We believe a longer phase in period is necessary. Small municipalities have fewer paid staff to accomplish basic accessibility and fewer resources to train the volunteers who create and post documents and create online resources. VLCT suggests two actions: divide the implementation requirements into benchmarks, and modify the timeline into a tiered structure with compliance for the smallest municipalities of up to five years. A benchmark example might be: Within two years, all newly posted content must be compliant, and a municipality must inventory its website content and develop a five-year schedule for either removing content or bringing it into compliance.
- 2. Third-party software compliance.** Depending on their size, Vermont's municipalities use web applications to support content management, fee and fine payment, facility rentals, program registration, access to land records and maps, reporting problems, requesting reports, accepting comments, and accepting employment applications. Until the vendor community understands accessibility and is required to incorporate accessibility features into their products, WCAG compliance of websites will be impossible.

3. **Require filing an inaccessibility claim for web content prior to initiating more aggressive steps.** Rather than start web content accessibility requirements with an adversarial process, use a 5-year ramp up period to provide state and local governments with the opportunity to fix accessibility issues using a firm deadline based on issue complexity. This will allow users to have potential issues fixed and will provide a learning opportunity for state and local governments. State and local governments could be required to publish an [accessibility statement](#) and have a process whereby website users can submit accessibility issues for resolution. This could be like a Title VI procedure and form. Require a mechanism that is easy for people with disabilities to report an issue. Users could take more aggressive steps if the state or local government failed to respond.
4. **Measure compliance differently than pass/fail as included in WCAG 2.1.** The ADA requires effective communication. The rule should provide for a review to determine if/how the measure of failure impacted the user's ability to access content and a timeline for remediation of the issue based on the complexity of the fix. This would allow government entities that are new to the web and officials that have not previously had experience with the ADA additional time for learning. It also would allow for changes in technology that might make accessibility easier to achieve.
5. **Testing imposes an undue burden.** WCAG 2.1 requires some level of human evaluation on every page before a website can be deemed to comply with it. This evaluation costs between \$200- \$350 per page. Any change made to any of the evaluated web pages could result in the entire site being out of conformance with WCAG. VLCT requests that the Department rewrite the proposed rule to provide for effective communication rather than the strict liability standard of WCAG 2.1. Effective communication is more practical to implement and aligns with the goals of the ADA.
6. **Archived Web Content.** While this requirement provides municipalities with an option to segregate information, it does not provide for effective communication, which may be detrimental to people with disabilities. Separating archived content could result in web users missing critical, related information. If older content on a website is not accessible, conversion of the content into an accessible format when a user with a disability requests the content or using an alternate means of effective communication should be required. This approach will ensure that archived content is made accessible over time and minimizes the burden on municipalities.

Local governments will face significant compliance costs testing every web page and finding solutions from vendors who provide web applications. For example, Vermont law requires recording meetings if the legislative body meets virtually. Municipalities use the software of the virtual meeting platform in which they've invested. The ability to caption recorded meetings depends on the accuracy of that software's captioning. Most virtual meeting platforms, such as Zoom, GoToMeeting, and Skype, use automatic speech recognition, which can have accuracy rates ranging from 60-70%. A trained transcriptionist takes four to five hours to transcribe one hour of audio or video content from scratch with additional hours required for synchronization and quality assurance, making the cost to translate a 2-hour meeting ~\$225 if the transcriber is paid \$15 per hour<sup>2</sup>. For legislative bodies that meet monthly, the transcription cost would be \$2,700 annually. Additionally, workforce limitations exist in every industry. Finding qualified vendors to serve smaller municipalities (i.e., smaller contracts) will be a challenge. This challenge is occurring in every service area.

Vermont's municipalities are powered by volunteers. Websites postings and maintenance for smaller municipalities are completed by those volunteers, who may or may not understand accessibility

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<sup>2</sup> 3PlayMedia. *The Cost of In-House Captioning for a 1-Hour Video*. Accessed online October 3, 2023. <https://www.3playmedia.com/blog/how-much-does-closed-captioning-service-cost/#:~:text=The%20Cost%20of%20In%2DHouse%20Captioning%20for%20a%201%2DHour%20Video.>

requirements. Providing training for volunteers is substantially different than training paid professionals. It is an ongoing process that may be required more than once a year, and it may result in non-compliance more often than happens for municipalities who can use paid professionals.

The pandemic has moved many government services out of the office and onto websites, which has increased the accessibility of government programs and services. Web content accessibility is an important issue to address. VLCT appreciates the opportunity to comment on the proposed rule.

Sincerely,

Ted Brady

Executive Director