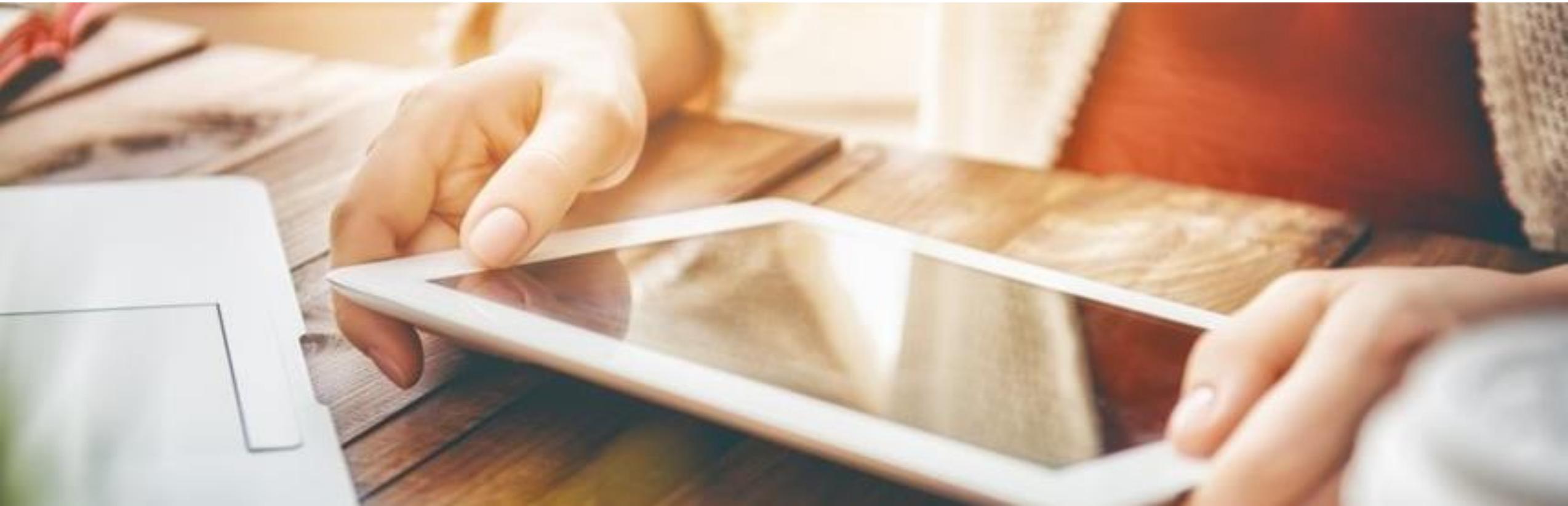


# ADA – THEN AND NOW

---

Presented to Florida Government Finance Officers

A collaborative discussion about the importance of compliance with the Americans with Disabilities Act, where it all started, and where it is going.





# Today's Agenda



ADA basics



Current news



Hot topics  
WCAG 2.1  
and PDFs



The future of  
the ADA  
and resources

# What Will You Learn?



Resources to check your website's accessibility



Where to start, and how to prioritize remediating content and documents



PDFs on your website, new information on WCAG 2.1, and the future of the ADA



# Over 1 billion people

(15% of the world's population)

# live with some form of disability.



## 56.7 million Americans have some type of disability



**8.1 million**

### Visual

Individuals who are blind, have limited vision, or color-blindness



**7.6 million**

### Auditory

Users who are deaf or hard-of-hearing



**15.2 million**

### Motor

People that have difficulty using a mouse and/or a traditional keyboard



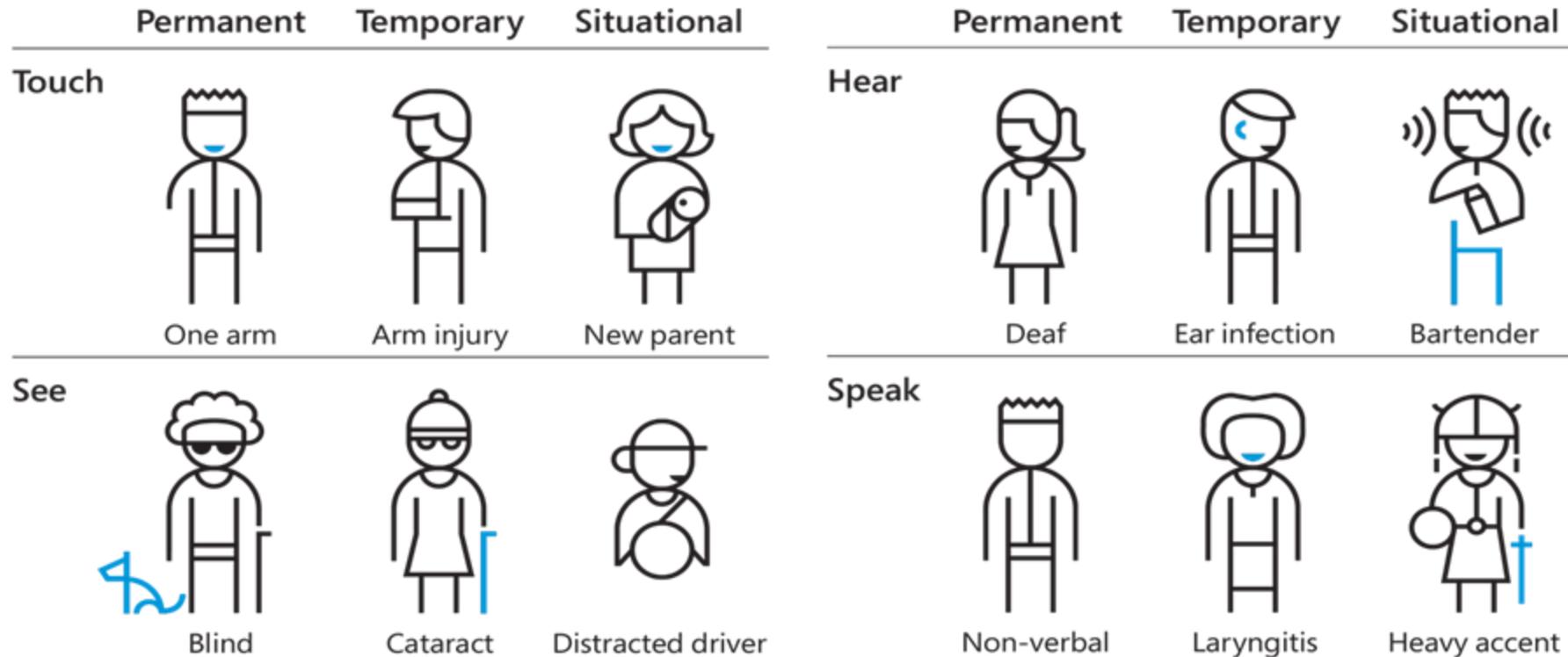
**15.2 million**

### Cognitive/Learning

Individuals who have a greater difficulty with mental tasks than the average person

# Why is Digital Accessibility Important?

It's about removing barriers and ensuring equal access for everyone.



## **QUESTION ONE:**

# **How many people are affected by a disability?**

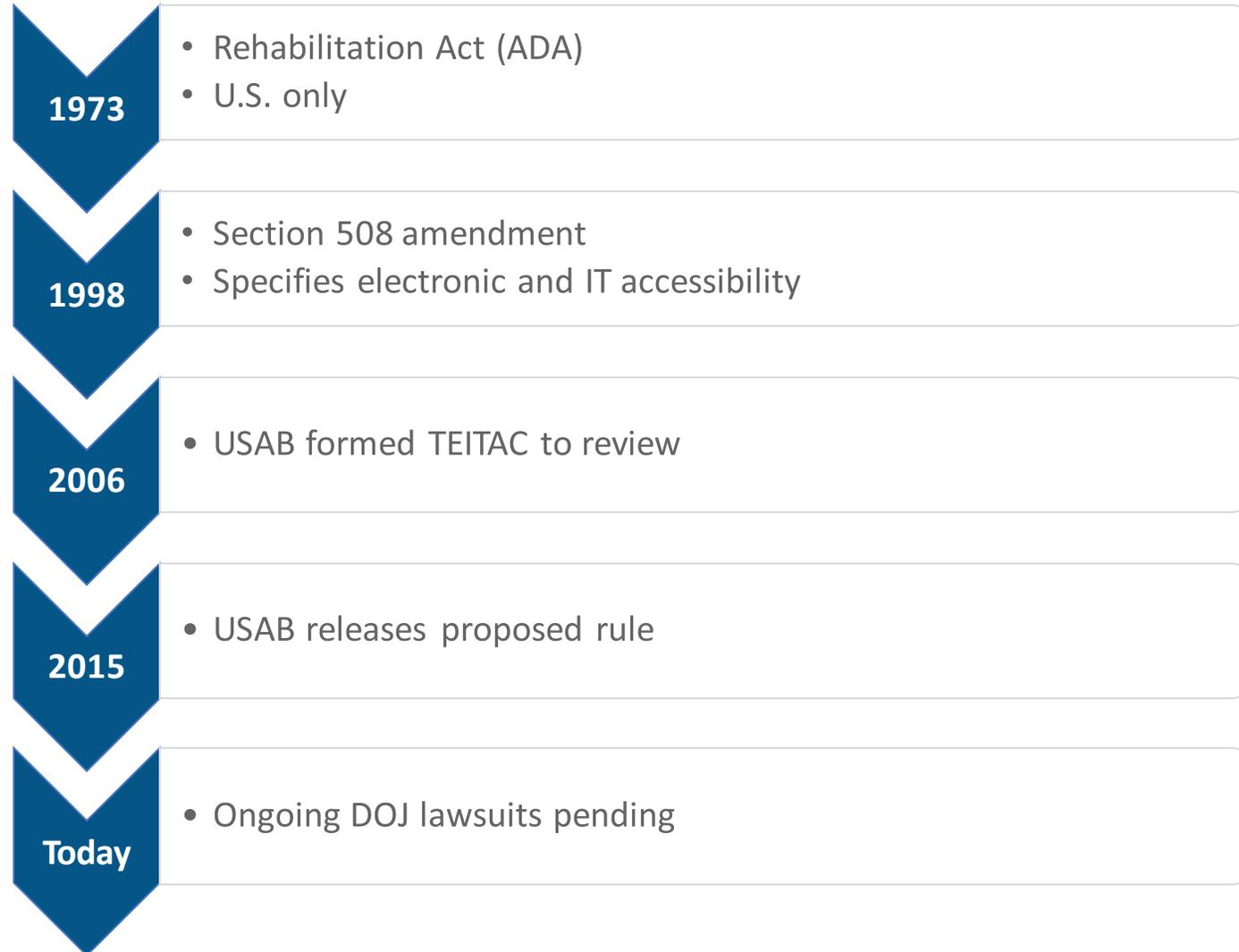
- A. Almost one thousand people worldwide
- B. Nearly one million people worldwide
- C. More than one billion people worldwide
- D. It is hard to put numbers to something like this

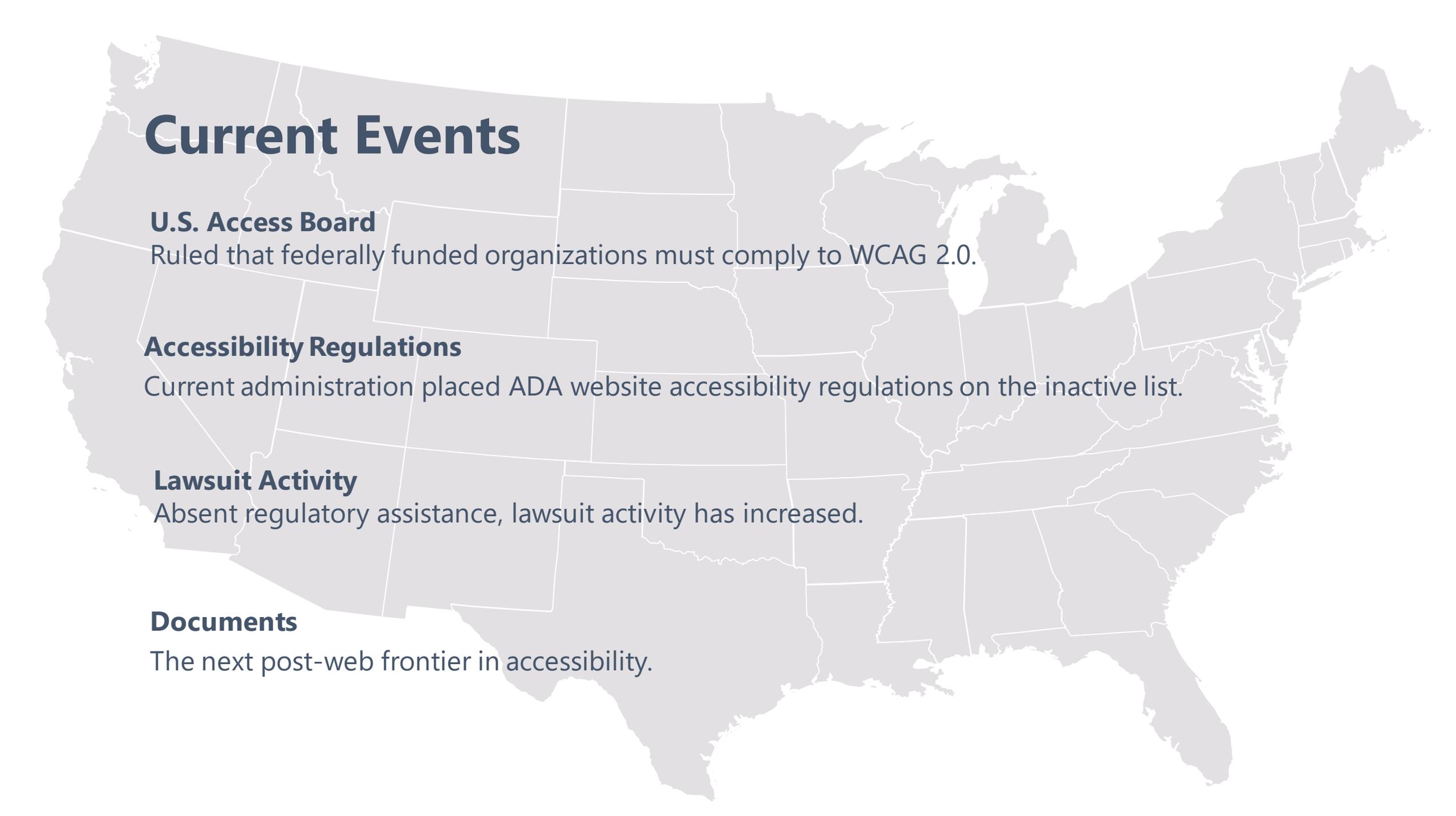
# Laws, Guidelines and Enforcement

- Accessibility legislation and how it applies to local governments.
- Know the current issues facing cities and counties.
- Communicate internally about your city and county responsibilities.



# Section 508: A History





# Current Events

## **U.S. Access Board**

Ruled that federally funded organizations must comply to WCAG 2.0.

## **Accessibility Regulations**

Current administration placed ADA website accessibility regulations on the inactive list.

## **Lawsuit Activity**

Absent regulatory assistance, lawsuit activity has increased.

## **Documents**

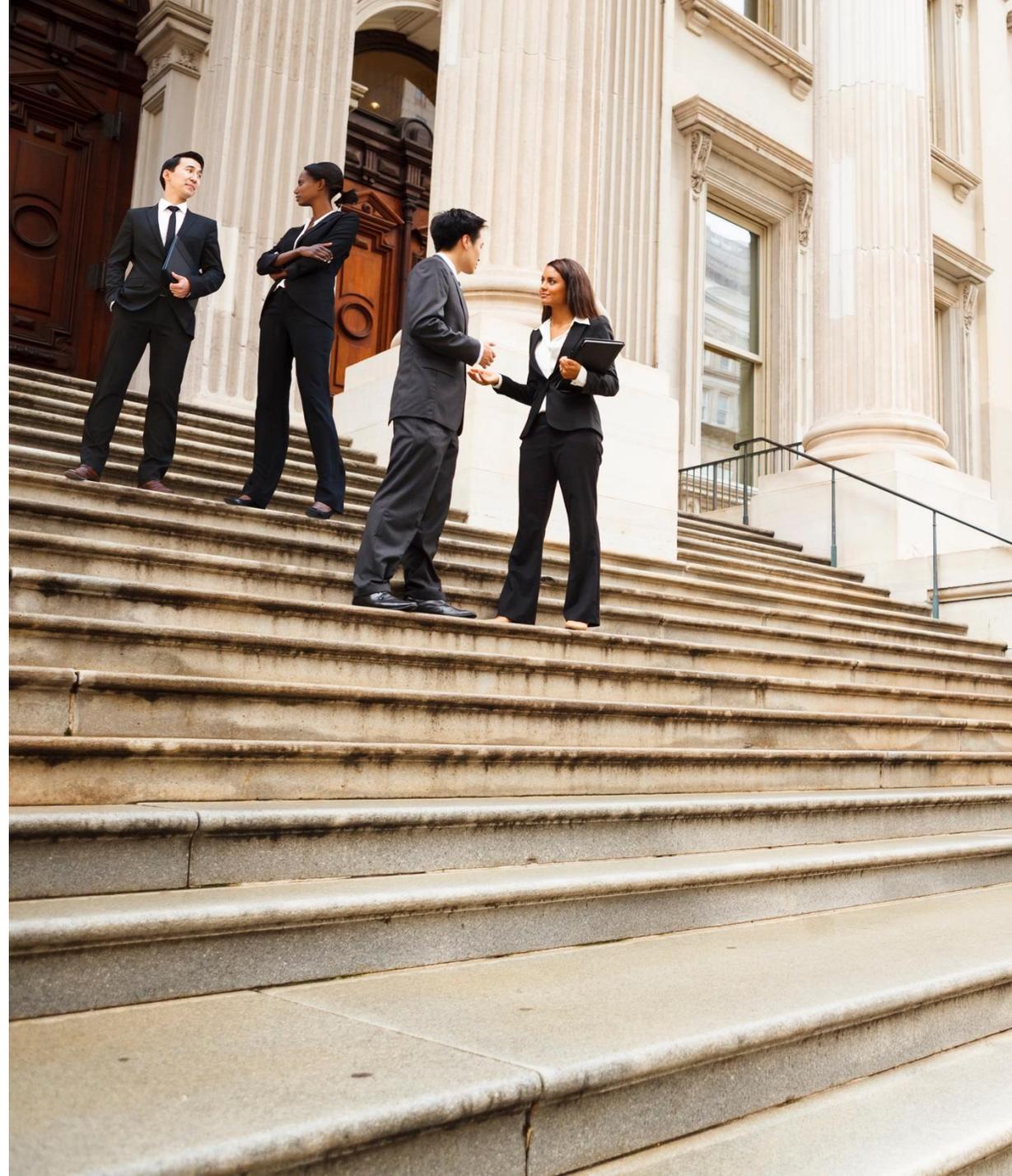
The next post-web frontier in accessibility.

# ADA and Local Governments

Title II of the ADA specifically applies to state and local governments:

- Subtitle A protects qualified individuals with disabilities from discrimination based on disability in services, programs, and activities provided by state and local government entities.

Title III extends protections to public accommodations.



# ADA Section 508 and WCAG

## WCAG 2.0 Success Criteria – 3 levels

- Level A (minimum) – Basic web accessibility.
- Level AA (mid-range) – Most common barriers for disabled users
- Level AAA (highest) – Highest level of web accessibility

ADA (Section 508) expected to conform to WCAG 2.0 Level AA



Visual 	Hearing 	Motor 	Cognitive 
<ul style="list-style-type: none"><li>• Blindness</li><li>• Low vision</li><li>• Color blindness</li></ul>	<ul style="list-style-type: none"><li>• Deafness</li><li>• Hearing impairments</li></ul>	<ul style="list-style-type: none"><li>• Difficulty or inability to use hands</li><li>• Tremors</li><li>• Muscle slowness</li><li>• Limited fine motor control</li></ul>	<ul style="list-style-type: none"><li>• Learning disabilities</li><li>• Disabilities affecting memory</li><li>• Attention</li><li>• Problem solving</li><li>• Logic</li></ul>

# WCAG 2.0 at a Glance (POUR)

## Perceivable

- Provide text alternatives for non-text content.
- Provide captions and other alternatives for multimedia.
- Create content that can be presented in different ways, including by assistive technologies, without losing meaning.
- Make it easier for users to see and hear content.

## Operable

- Make all functionality available from a keyboard.
- Give users enough time to read and use content.
- Do not use content that causes seizures.
- Help users navigate and find content.

## Understandable

- Make text readable and understandable.
- Make content appear and operate in predictable ways.
- Help users avoid and correct mistakes

## Robust

- Maximize compatibility with browsers and user tools.



# Accessibility Compliance

Principles	Guidelines	Level A Must Satisfy	Level AA Should Satisfy	Level AAA May Satisfy
1. Perceivable	1.1 Text Alternatives	1.1.1		
	1.2 Time-based Media	1.2.1 – 1.2.3	1.2.4 – 1.2.5	1.2.6 – 1.2.9
	1.3 Adaptable	1.3.1 – 1.3.3		
	1.4 Distinguishable	1.4.1 – 1.4.2	1.4.3 – 1.4.5	1.4.6 – 1.4.9
2. Operable	2.1 Keyboard Accessible	2.1.1 – 2.1.2		2.1.3
	2.2 Enough Time	2.2.1 – 2.2.2		2.2.3 – 2.2.5
	2.3 Seizures	2.3.1		2.3.2
	2.4 Navigable	2.4.1 – 2.4.4	2.4.5 – 2.4.7	2.4.8 – 2.4.10
3. Understandable	3.1 Readable	3.1.1	3.1.2	3.1.3 – 3.1.6
	3.2 Predictable	3.2.1 – 3.2.2	3.2.3 – 3.2.4	3.2.5
	3.3 Input Assistance	3.3.1 – 3.3.2	3.3.3 – 3.3.4	3.3.5 – 3.3.6
4. Robust	4.1 Compatible	4.1.1 – 4.1.2		

# Coming Soon: The Silver Standard

## **WCAG 2.1 Release Impacts – W3C**

WCAG 2.1 is the new official standard of the W3C.

## **Future Releases of WCAG 2.X**

- 2.2 Incremental update.
- 2.3 Possible.

## **WCAG 3.0 AKA Silver Standard**

- Total rework of WCAG to cover ALL digital products.
  - Not just Web content.
- Removed “WC” to become “AG” or Accessibility Guidelines.
  - AG = Silver on the periodic table of elements.





# WCAG 2.1 Update



Extended criteria of WCAG 2.0 – it does **not** replace these standards.



Will address accessibility within Desktops, laptops, tablets, mobile devices.



How to meet 2.1? Alt, time-based media (closed captions, prerecorded audio, audio descriptions, live captions, sign language, media alternatives)



Will provide more accessible content for the disabled including but not limited to vision, deafness/hard of hearing, limited movement, speech, photosensitivity, learning disabilities, cognitive limitations

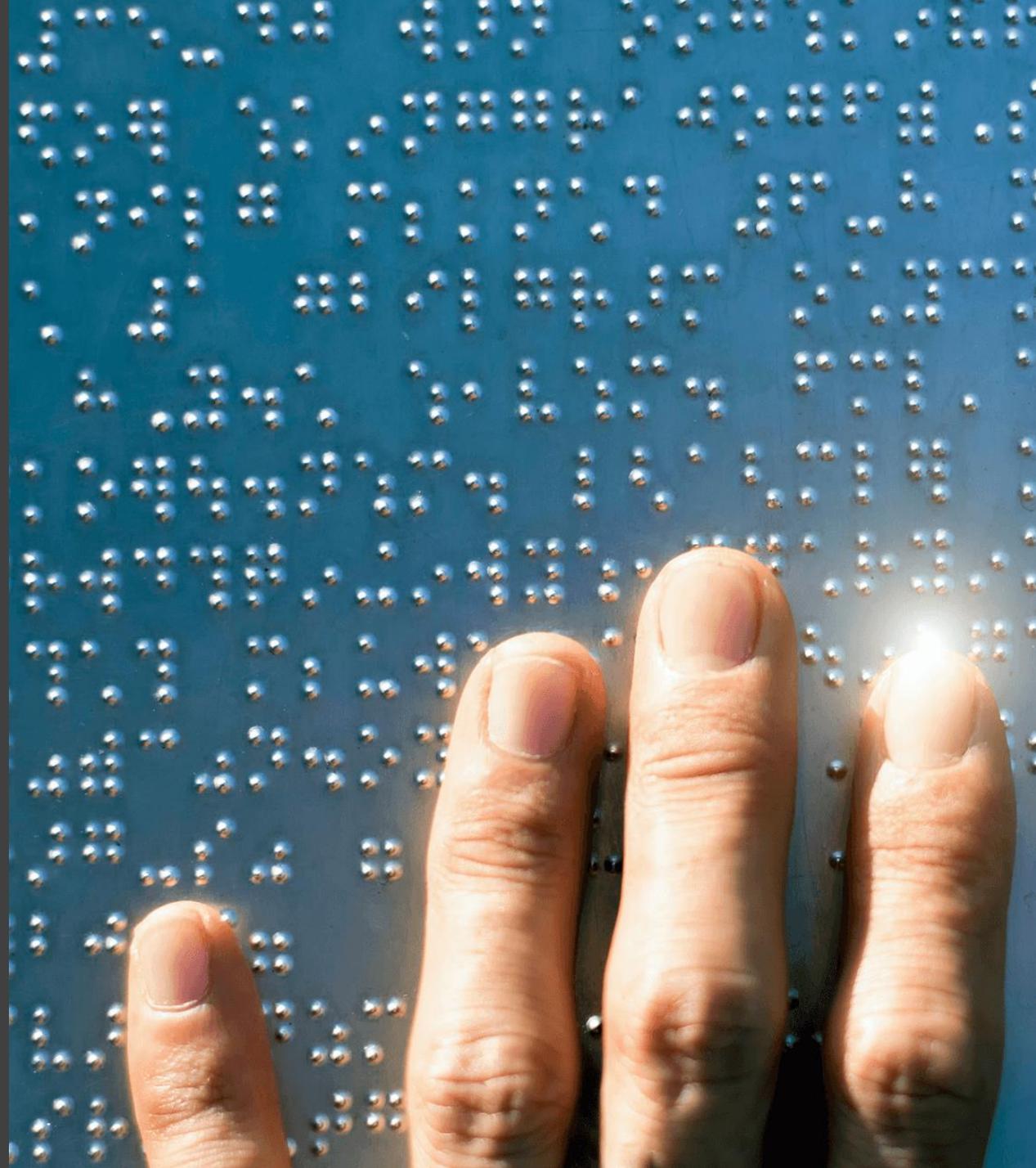
# How is Title III Enforced?

- Making accessible websites is the right thing to do to ensure equitable access.
- The DOJ signaled that it favors private settlements rather than judicial rulings.
- Activist lawsuits and complaints are becoming more common.



# Current Landscape

- Current legislative and legal landscape.
- What is new in local government?
- What is new in Florida?



## **QUESTION TWO:**

**Which Title of the ADA deals specifically with state and local governments?**

- A. Title I
- B. Title II
- C. Title III
- D. The ADA does not specifically mention state and local governments

# ADA Lawsuits Are on the Rise, Website Complaints Biggest Targets

Lawyers say they've seen an uptick in lawsuits and expect no respite for Americans with Disability filings as more companies expand in their online presence.

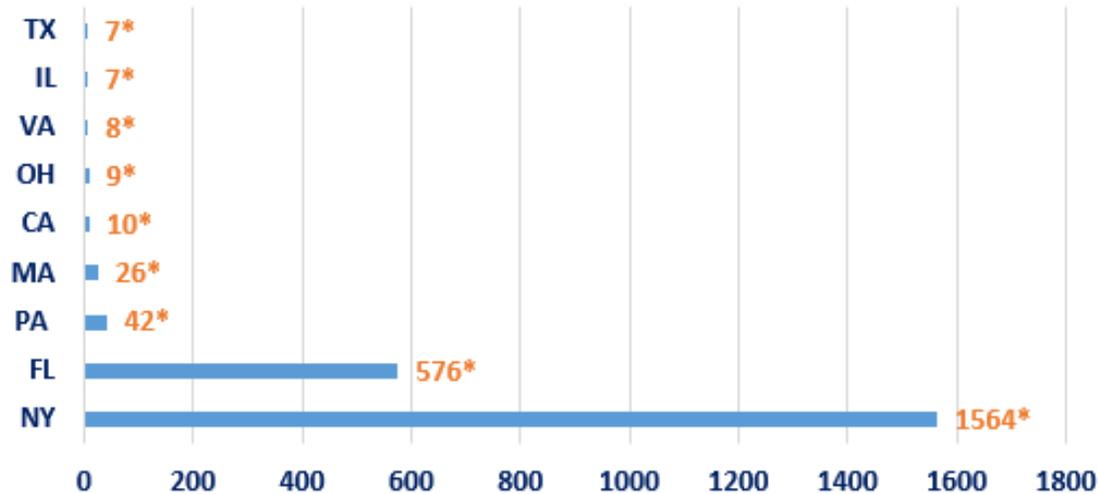
By Victoria Hudgins | January 24, 2019

Although the Americans with Disabilities Act was enacted nearly 30 years ago, lawyers say lawsuit filings aren't cooling down. In fact, ADA complaints specifically against website owners are heating up.

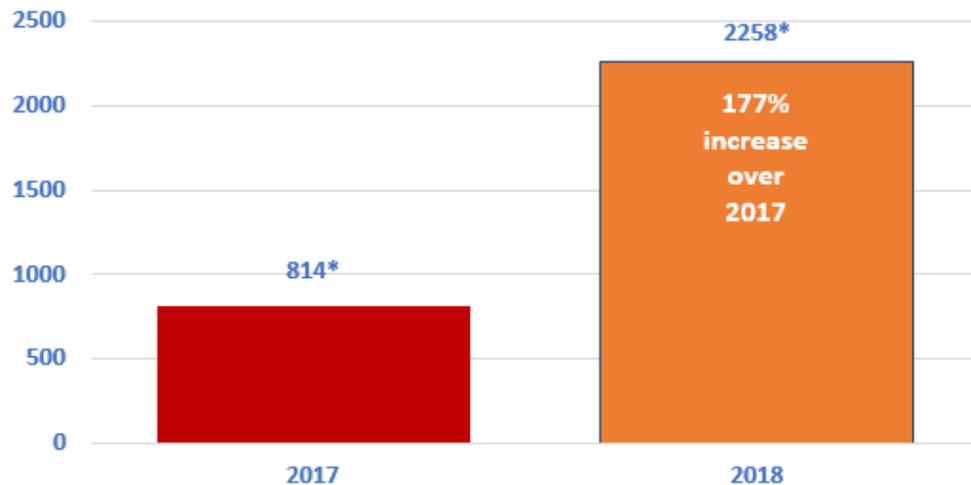
Florida's Serial ADA Lawsuits: Long Overdue or 'Legal Extortion'?

Florida has become a top spot for lawsuits under Title III of the Americans with Disabilities Act – a sore spot for lawyers on each side. While plaintiffs say they're "frustrated" at a widespread lack of compliance, defendants feel they're "sitting ducks," unfairly

Top 10 States for ADA Title III Website Accessibility Lawsuits



ADA Title III Website Accessibility Lawsuits in Federal Court (2017-2018)



## Title III Accessibility Lawsuits

- Exponential increase in numbers of Title III Web accessibility lawsuits from 2017 to 2018.
- Many suits are still concentrated in certain locales.
- Single plaintiffs have logged more than 150 complaints.
- First complaint letter, then lawsuit. Often seeking settlement.
- There is **1 complaint per hour** currently.

# The Supreme Court and Web Accessibility



- In 2016 a visually disabled man sued Domino's Pizza because he couldn't order a specialty pizza on the website using his screen reader.
- Domino's argued that the ADA applies to physical locations and not online platforms.
- The Court of Appeals sided with the plaintiff, writing that websites "are places of public accommodation" covered by Title III of ADA.
- Domino's urged the U.S. Supreme Court to review the decision, arguing that online platforms were not envisioned when the ADA was passed in 1990.
- In October 2019, the U.S. Supreme Court denied the petition—a win for disability advocates.
- **What this means for local governments:**
  - Your website is a place of public accommodations.
  - Your virtual city hall applies to ADA law the same way your city hall building needs a wheelchair ramp.



**23.5%**

Of adults in Florida  
have a disability

**5.7%**

Of their disabilities  
are vision related

**19%**

The national disability rate in  
2010. Florida is 4.5% higher  
than the average.

**8.1m**

Americans with a vision  
disability that may rely  
on a screen reader

# Florida Lawsuits and Web Accessibility

- In 2016, the Southern District Court of Florida ruled that a retail pharmacy's website was subject to the ADA and that it had to become compliant to assistive technology.
- First case to go all the way to a verdict.
- Ruled in favor of plaintiff.
- No damages, but the defendant must:
  - Update the website to WCAG 2.0.
  - Add an accessibility page.
  - Adopt an Accessibility Policy.
  - Ensure all pages are accessible by screen reader.



# Legally Vetted Example: Winn Dixie Groceries

## Southeastern Grocers Website Accessibility

### Website Accessibility Statement

Southeastern Grocers is committed to facilitating the accessibility and usability all of its digital properties, including "SEGrocers.com", for all people with disabilities. Southeastern Grocers is in the process of implementing the relevant portions of the World Wide Web Consortium's Web Content Accessibility Guidelines 2.0 Level AA (WCAG 2.0 AA) as its web accessibility standard. Our website will be tested on a periodic basis with assistive technology such as screen readers and screen magnifiers, and with users with disabilities who use these technologies.

### Contact Southeastern Grocers With Your Accessibility Questions

Please be aware that our efforts are ongoing. If at any time you have specific questions or concerns about the accessibility of any particular web page owned by Southeastern Grocers, please contact us at [accessibility@segrocers.com](mailto:accessibility@segrocers.com). If you do encounter an accessibility issue, please be sure to specify the web page in your email, and we will make all reasonable efforts to make that page accessible for you.

# Florida Lawsuits and Web Accessibility

- In 2019, with similar facts as the Winn-Dixie case, a Miami attorney filed more than 600 ADA lawsuits across Florida.
- Many were against local governments and counties involving documents that could not be read in a screen reader.
- While none went to verdict, many were settled out of court for financial payments.
- This summer a Federal Judge ruled that the lawsuits were frivolous, and the billing times were inflated, and imposed sanctions.
- The ruling stated that the attorney had to pay back the settlements and a fine of \$59,000 to the clerk or the Disability Independence Group.



## QUESTION THREE:

**Which standard is currently considered the standard for accessibility?**

- A. WCAG 2.0 AA
- B. WCAG 2.1 AAA
- C. WCAG 2.1 A
- D. It doesn't matter if you're doing the best you can

# What You Should Do

- Current legislative and legal landscape.
- What is new in local government?
- What is new in Florida?



# What the DOJ Requires

## **Plan**

To become compliant

## **Audit**

By a recognized third-party vendor

## **Remediation**

Solutions

## **Ongoing Maintenance**

Quarterly



# Steps to Accessibility

1. Adopt a Visible Accessibility Policy.
2. Provide an Accessibility Contact.
3. Establish an Audit Priority Plan.
4. Implementation Plan.
5. Remediation Plan (transition plan modifications).
6. Engage and enlist your disabled community.
7. Provide accessibility support resources for end users.



# Start Your Accessibility Program

- Identify realistic goals.
  - Timelines—marathon not a sprint.
  - Action plans.
  - Define milestones.
  - Budgetary considerations.
- Identify existing resources.
- Address legal and regulatory issues.



## QUESTION FOUR:

# Which are required by the DOJ for accessibility?

- A. Develop a plan to become compliant
- B. Have an audit by a third-party
- C. Ongoing, regular maintenance
- D. All the above are required for true accessibility

# Accessibility Policy



# Accessibility Policy Checklist

## Civil Rights

Rhyme with Equal Opportunity, HIPAA, or Security Policy.

- Extension of civil rights.

## Electronic Communication

Accessible by all.

## Technical Standards

WCAG 2.0 AA generally accepted.

## Establish Timeline

Not all work can occur at once—prioritize.

## Create in Accessible Format

Public facing and screen reader compatible.



# Accessibility Statement

An accessibility statement is an open commitment to the level of accessibility an organization hopes to achieve. It has a specific set of criteria it is trying to meet (such as WCAG 2.0) and the name of a coordinator that citizens can contact with questions or concerns.

## QUESTION FIVE:

# What is most important about your accessibility policy?

- A. Make sure it is accessible to everyone
- B. Make sure it is WCAG 2.1 compliant right away
- C. It must be printed in braille and distributed to all citizens
- D. All the above are required for true accessibility

# Accessibility Audit



# Audit Solutions

## Third-Party Single Page Scans:

- Webaccessibility.com
- Wave
- 508 Checker

## Full remediation and Scans:

- AudioEye, Inc.
- Bureau of Internet Accessibility
- Tenon

## Full-Service Scans:

- Bureau of Internet Accessibility
- Site Improve
- Tenon
- Criterion 508
- School Webmasters



# Audit Best Practices

## **Define Monitoring and Review Process:**

- Regularly review progress.
- Update timescale and when you achieve milestones.
- Review content and tools in scope.
- Seek feedback from disabled users.

## **Best Practices:**

- Quarterly reporting.
- Automated scans.
- Engage with your disabled community.



# Documents and Accessibility

- Most local governments use PDFs to house documents.
- PDF files are in many cases the only way for website visitors to access certain content. They are the best file option for:
  - Making secure and downloadable documents.
  - Printing documents that need to keep a format.
  - Providing a high-level of detail in documents.
  - Creating interactive forms, as well as documents with low usage.
- Most PDFs in their natural state are not accessible to assistive technology.



# PDFs and Web Accessibility

## Make them screen readable

Visual impairment should not be an obstacle.

## Make them text searchable

OCR is not enough.

## Test with assistive technology

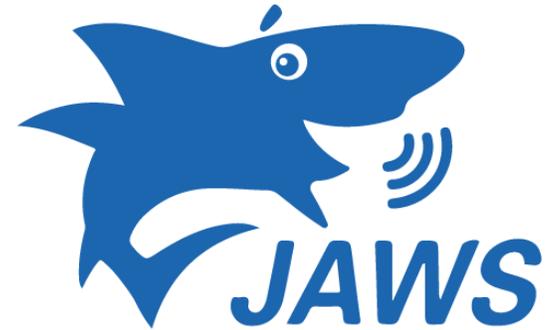
Ensure it works prior to publishing.

## Use structure tags to define reading order

Headings are hooks for assistive technology.

## For fillable forms, include more instruction

Make interactivity more interactive.



Introducing ChromeVox Next

# The Future of ADA



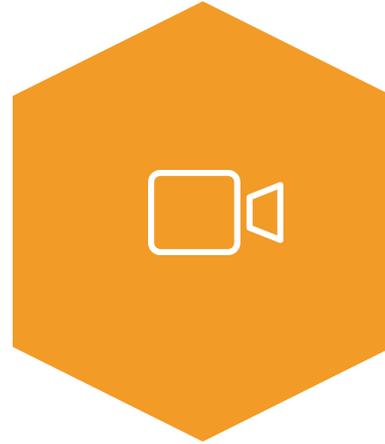
## WCAG 2.1

The new standard for W3C. Includes mobile application accessibility.



## WCAG 3.0 SILVER STANDARD

Rework of WCAG to cover **all** digital products not just web content.



## CLOSED CAPTIONING

For videos and media posted on websites.



## TRUSTED VENDORS

Take time to vet vendors for ADA tools, PDFs, website development, consulting, audits, etc.

## **QUESTION SIX:**

# **How can I test my web pages or PDFs to make sure they are accessible?**

- A. Tab through and ensure you can navigate to each section
- B. Use a screen reader and ensure everything can be read
- C. Use scanning technology to test for accessibility errors
- D. All the above are required for true accessibility

# Resources and Contact Information

Name	Resource	Title	Contact Info
<b>ADA CONTACT</b>	ADA Southeast Center	Your ADA Resource	<a href="https://adasoutheast.org/">adasoutheast.org/</a>
<b>Don Torrez</b>	Certified ADA Coordinator, resource for consulting and guidance.	Partner Manager/ADA Coordinator	<a href="mailto:Torrez@civicplus.com">Torrez@civicplus.com</a> 913-706-1069
<b>Nancy Hahlbeck</b>	Certified ADA Coordinator, resource for FL referrals, consulting and guidance.	Enterprise Account Manager/ADA Coordinator	<a href="mailto:nhahlbeck@civicplus.com">nhahlbeck@civicplus.com</a> 816-783-3662
<b>Census</b>	Learn about your organization/state's disability rates to determine what needs to be prioritized.	N/A	<a href="https://census.gov/">census.gov/</a>
<b>W3</b>	Learn about current and future guidelines, what you are responsible for, and tips on how to get started remediating your digital presence.	N/A	<a href="https://w3.org/">w3.org/</a>