

DIGITAL ACCESSIBILITY:
What have we learned and what does the future hold?
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What does the ADA do?

The ADA protects persons with disabilities from discrimination in:

- Employment (Title I)
- State and local government programs and services (Title II)
- private Places of public accommodation and transportation (Title III)

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The ADA is older than the consumer internet

- The ADA was signed into law in July 1990
- The first web browser was made available for general consumer use in Late 1993
- The first search engines and online shopping outlets came online in 1994
- The first online bank was founded in 1995
- The first government employment website came online in 1996
- The first online tax preparation system came online in 1997

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Then how might the ADA apply to digital access?

- Employers must provide reasonable accommodations to applicants and employees with disabilities
- Those accommodations must be effective in allowing the employee or applicant to perform all of the duties of the position held or sought
- State and local governments and private places of public accommodation and transportation must provide auxiliary aids and services for persons with disabilities
- Those auxiliary aids and services must communicate information in a manner that is equally effective as for persons without disabilities

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How has this played out with respect to digital accessibility

- "Accessible electronic information technology" is now listed as a potentially necessary auxiliary aid or service (28 C.F.R. §§ 35.104 and 36.303(b))
- Dear Colleague Letters from DOE and DOJ to college and university presidents
- DOJ Statements of Interest, Interventions, Settlements, and Consent Decrees
- *Robles v. Domino's Pizza, LLC*, 913 F.3d 898 (9th Cir. 2019)
- *Nat'l Fed. of the Blind v. Scribd Inc.*, 97 F. Supp. 3d 565 (D. Vt. 2015)
- *Nat'l Ass'n of the Deaf v. Netflix, Inc.*, 869 F. Supp. 2d 196 (D. Mass. 2012)
- *Nat'l Fed. of the Blind of Cal. v. Uber Tech., Inc.*, 103 F. Supp. 3d 1073 (N.D. Cal. 2015)

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Other Laws broaden the scope and applicability of digital access

- Sections 501, 504, and 508 of the Rehabilitation Act of 1973
- Section 1557 of the Affordable Care Act
- State analogues to Section 508
- State laws that broaden scope of public accommodation
- Interference provisions of state and federal law

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Where are we going?

- WCAG
- Universal Access principles
- Automated restaurants and retail
- Virtual reality

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QUESTIONS



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Thank you!

Further questions or concerns? Legal questions? Reach out at:

- Phone: 415-873-9199
- Aelia at [trelegal.com](mailto:aelia@trelegal.com)

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Mark Your Calendars for the Next Webinar:
September 17, 2020
Topic to be determined

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