

February 28, 2022

The Honorable Kristen Clarke  
United States Assistant Attorney General  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Dear Assistant Attorney General Clarke:

The 181 undersigned disability organizations believe that there is an urgent need for digital accessibility regulations. We urge the Department of Justice to maintain this rulemaking process as a priority and finalize a rule by the end of the current administration.

The US Department of Justice has long held that the Americans with Disabilities Act (ADA) includes websites and other technologies that are critical to accessing a business's or agency's services or facilities but has failed to define when and how they should be accessible. In 2018, the Department reconfirmed its position that the ADA applies to the internet<sup>i</sup> but never completed rulemakings that were begun in 2010 under Titles II and III of the ADA and withdrawn in 2017.<sup>ii</sup> Meanwhile, courts have diverged in interpreting when and how the ADA should apply to the internet, and business groups are on the record seeking clear standards that clarify their obligations under the ADA.

In 2016, the National Council on Disability (NCD) recommended that the Department of Justice issue a notice of proposed rulemaking that reinforces that the ADA applies to the internet. NCD also recommended that multiple agencies complete existing rulemakings and initiate new rulemakings on accessibility of various types of information and communication technology (ICT), including web content, applications, hardware, and software. The absence of digital accessibility regulations in the intervening time period has resulted in persistent exclusion of people with disabilities from digital spaces covered by the ADA.

Recent research has shown the breadth of barriers that people with disabilities face. Several studies find persistent barriers in telehealth accessibility. A study of 74 Deaf participants who had recently used telehealth found that 65% of participants experienced communications accessibility barriers. Deaf patients frequently experience the inability to connect remote medical interpreters or real-time captioners through the secure telehealth platform, the inability to see the provider on video, and other technical issues, including poor audio quality.<sup>iii</sup> Another study found that of 285 blind and low vision participants who had used telehealth to meet with their healthcare provider, 21% reported the telehealth platform was not accessible with their assistive technology, and preliminary data from a forthcoming study suggests that the number could exceed 50% a year later.<sup>iv</sup> Moreover, while there are no studies directly examining the telehealth experiences of DeafBlind people, anecdotal reports suggest that the vast majority of DeafBlind people are completely unable to utilize telehealth as it currently exists.

The challenges are present in every sector of society. Nearly 60% of the educators surveyed in a Fall 2020 study reported their blind and low vision students could not access one or more of the digital learning tools they were expected to use in class.<sup>v</sup> A 2022 study found that about 50% of survey respondents experienced accessibility challenges when filling out electronic onboarding paperwork.<sup>vi</sup> Moreover, an annual automated analysis demonstrates how common inaccessibility barriers are, finding that of one million webpages reviewed in 2021, 97% had accessibility issues, and an average of 50 errors appeared on every page.<sup>vii</sup>

These findings are neither exhaustive of all website-related issues nor comprehensive of the entire disability community. The disability community is large and diverse, facing access issues that continue to grow and evolve with the ever-changing landscape of websites and applications. While the studies cited primarily explored the experiences of people with sensory disabilities, accessibility issues are pervasive, frequent, and harmful for people with other disabilities as well.

The scale of inaccessibility and its impact on access to nearly every type of web or application-based activity necessitates regulatory action. As the COVID-19 pandemic has made abundantly clear, we live in a society that increasingly lives and works through digital tools and online spaces. When websites and applications are inaccessible, people with disabilities cannot apply for jobs, work efficiently, attend school, access healthcare, schedule a ride, shop, find public health information, apply for public benefits, and more.

We remind you that Congress intends the ADA to cover the internet and applications. We urge you to continue the rulemaking process at a pace that ensures a rule can be finalized by the end of the current administration. Thank you for your consideration and work on behalf of people with disabilities.

Sincerely,

American Council of the Blind, Clark Rachfal, [CRachfal@acb.org](mailto:CRachfal@acb.org)  
American Foundation for the Blind, Stephanie Enyart, [SEnyart@afb.org](mailto:SEnyart@afb.org)  
National Disability Rights Network, Claire Stanley, [Claire.Stanley@ndrn.org](mailto:Claire.Stanley@ndrn.org)  
National Federation of the Blind, John Pare, [JPare@nfb.org](mailto:JPare@nfb.org)

ACB Diabetics In Action  
ACB Government Employees  
ACB Radio Amateurs  
ACBT  
Access Living of Metropolitan Chicago  
Access Ready  
Accessible Avenue  
Accessible Pharmacy Services for the Blind  
Alabama Disabilities Advocacy Program  
Alabama Institute for the Deaf and Blind  
Alliance for Aging Research  
Alliance on Aging and Vision Loss  
Alphapointe  
American Association of People with Disabilities  
American Association on Health and Disability  
American Association of Kidney Patients (AAKP)

American Council of Blind Families  
American Council of Blind Students (ACBS)  
American Council of the Blind of Indiana  
American Council of the Blind of Maryland  
American Council of the Blind of Ohio  
American Council of the Blind-Texas  
American Printing House for the Blind (APH)  
American Samoa Protection and Advocacy for the Disabled  
Arizona Center for Disability Law  
Arkansas Council of the Blind  
Assistive Technology Industry Association  
Association for Education and Rehabilitation of the Blind and Visually Impaired  
Association for the Blind and Visually Impaired South Carolina  
Association for Vision Rehabilitation and Employment, Inc.  
Association of Assistive Technology Act Program  
Association of Late-Deafened Adults, Inc. (ALDA)  
Association of University Centers on Disabilities  
Atlantis Community, Inc.  
Autistic Self Advocacy Network  
Autistic Women & Nonbinary Network  
Axis Advocacy  
Bay State Council of the Blind  
Bazelon Center for Mental Health Law  
Bender Consulting Services  
Bestwork Industries for the Blind Inc  
Beyond Vision  
Blind & Vision Rehabilitation Services  
Blind Early Services of Tennessee (BEST)  
Blue Water League of the Blind  
Bosma Enterprises  
CAST  
CCABVI (Chester County Association for the Blind and Visually Impaired)  
Center for Independence of the Disabled, NY  
Center for Public Representation  
Colorado Cross-Disability Coalition  
CommunicationFIRST  
Cure SMA  
Davis Phinney Foundation for Parkinson's  
Deaf In Government (DIG)  
Deaf Seniors of America  
Disability Community Resource Center  
Disability Law Center of Alaska  
Disability Law Center of Massachusetts  
Disability Law Center of Utah  
Disability Policy Consortium  
Disability Rights Advocates  
Disability Rights Arkansas  
Disability Rights California  
Disability Rights Center - NH  
Disability Rights Center of the Virgin Islands

Disability Rights Education and Defense Fund  
Disability Rights Florida  
Disability Rights Iowa  
Disability Rights Maryland  
Disability Rights Michigan  
Disability Rights New Jersey  
Disability Rights North Carolina  
Disability Rights Ohio  
Disability Rights Pennsylvania  
Disability Rights South Carolina  
Disability Rights TN  
Disability Rights Vermont  
Enight Skills Center, Inc for visual rehabilitation  
Envision Workforce Innovation Center  
Epilepsy Foundation of America  
Equip for Equality  
Family Voices  
Florida Council of the Blind  
Golden Triangle Council of the Blind  
Goodwill of the Finger Lakes - ABVI Goodwill  
Guide Dog Users, Inc.  
Guide Dogs for the Blind  
Hawaii Association of the Blind  
Hawaii Disability Rights Center  
Hearing Loss Association of America  
Helen Keller Services  
Hypertrophic Cardiomyopathy Association  
IBVI  
IFB Solutions  
Illinois Council of the Blind  
Indiana Disability Rights  
IN-SIGHT  
International Foundation for Autoimmune & Autoinflammatory Arthritis (AiArthritis)  
International Pemphigus Pemphigoid Foundation  
Iowa Council of the United Blind  
iYellow Access  
Justice in Aging  
Kentucky Council of the Blind Next Generation  
Kentucky Council of the Blind  
Kentucky Protection and Advocacy  
Knowbility  
Lakeshore Foundation  
Lift Vision Services  
LightHouse for the Blind and Visually Impaired  
Lighthouse Louisiana  
Lilac Services for the Blind  
Lions Industries for the Blind, Inc.  
Livpact  
Mental Health America  
Michigan Council of the Blind and Visually Impaired

Mid-Minnesota Legal Aid - Minnesota Disability Law Center  
Missouri Council of the Blind  
MitoAction  
Mountain State Council of the Blind  
National Association of Councils on Developmental Disabilities  
National Association of Employment for People Who are Blind  
National Association of the Deaf  
National Black Deaf Advocates, Inc  
National Council on Independent Living  
National Disability Institute  
National Industries for the Blind  
Native American Disability Law Center  
NBIA Disorders Association  
Nevada Disability Advocacy and Law Center  
New Jersey Council of the Blind  
New York Association of Psychiatric Rehabilitation Services  
New York Vision Rehabilitation Association  
NewView Oklahoma  
North Carolina Council of the Blind  
North Central Sight Services, Inc.  
North Dakota Association of the Blind Inc.  
North Dakota Protection & Advocacy Project  
Not Dead Yet  
Oklahoma Council of the Blind  
Oklahoma Disability Law Center  
Organic Acidemia Association  
Paralyzed Veterans of America  
Partnership to Improve Patient Care  
Pennsylvania Council of the Blind  
Perkins School for the Blind  
Prevent Blindness  
Randolph Sheppard Vendors of America  
RespectAbility  
San Antonio Lighthouse for the Blind  
South Central Kentucky Council of the Blind  
South Dakota Association of the Blind  
Southern Indiana Center for Independent Living, INC dba The Solutions Center  
St. Louis Lighthouse for the Blind  
Syngap1 Foundation  
Teach Access  
Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)  
The Advocacy Institute  
The Arc of the United States  
The Coelho Center for Disability Law, Policy and Innovation  
The Lighthouse for the Blind, Inc.  
The Michael J. Fox Foundation for Parkinson's Research  
The National Research & Training Center on Blindness & Low Vision  
The New York Institute for Special Education  
The Partnership for Inclusive Disaster Strategies  
The Seeing Eye, Inc

Travis Association for the Blind  
United Cerebral Palsy  
United Spinal Association  
VHL Alliance  
VIA Visually Impaired Advancement  
VisionCorps  
VISIONS/Services for the Blind and Visually Impaired  
Visually Impaired Preschool Services (VIPS)  
Washington Lawyers' Committee for Civil Rights and Urban Affairs  
Wayfinder Family Services  
World Institute on Disability

cc: Attorney General Merrick B. Garland, U.S. Department of Justice

---

<sup>i</sup> Boyd, Stephen E. (2018, September 25) [Letter from Assistant Attorney General Boyd to Congressman Ted Budd] Published on Lainey Feingold Legal Blog, accessed February 9, 2022: <https://www.lflegal.com/2018/09/doj-cut/>

<sup>ii</sup> Nondiscrimination on the Basis of Disability; Notice of Withdrawal of Four Previously Announced Rulemaking Actions, 82 Fed. Reg. 60932 (December 26, 2017).

<sup>iii</sup> Mussallem, A., Panko, T. L., Contreras, J. M., Plegue, M. A., Dannels, W. A., Roman, G., Hauser, P. C., & McKee, M. M. (2022). Making virtual health care accessible to the deaf community: Findings from the telehealth survey. *Journal of Telemedicine and Telecare*. <https://doi.org/10.1177/1357633X221074863>. See also, Annaswamy, T.M., Verduzco-Gutierrez, M., & Frieden, L. (2020). Telemedicine barriers and challenges for persons with disabilities: COVID-19 and beyond. *Disability and Health Journal*. <https://doi.org/10.1016/j.dhjo.2020.100973>

<sup>iv</sup> Rosenblum, L. P., Chanes-Mora, P., McBride, C. R., Flewellen, J., Nagarajan, N., Nave Stawaz, R., & Swenor, B. (2020). Flatten Inaccessibility: Impact of COVID-19 on Adults Who Are Blind or Have Low Vision in the United States. American Foundation for the Blind. [www.afb.org/FlattenInaccessibility](http://www.afb.org/FlattenInaccessibility). Forthcoming research was conducted in summer 2021 and will be published in 2022. See [www.afb.org/JourneyForward](http://www.afb.org/JourneyForward).

<sup>v</sup> Rosenblum, L. P., Chanes-Mora, P., Fast, D., Kaiser, J. T., Wild, T., Herzberg, T. S., Rhoads, C. R., Botsford, K. D., DeGrant, J. N., Hicks, M. A. C., Cook, L. K., & Welch-Grenier, S. (2021). Access and Engagement II: An Examination of How the COVID-19 Pandemic Continued to Impact Students with Visual Impairments, Their Families, and Professionals Nine Months Later, American Foundation for the Blind. [www.afb.org/AccessEngagement](http://www.afb.org/AccessEngagement)

<sup>vi</sup> Silverman, A. M., Rosenblum, L. P., Bolander, E. C., Rhoads, C. R., & Bleach, K. (2022). Technology and Accommodations: Employment Experiences of U.S. Adults Who Are Blind, Have Low Vision, or Are Deafblind. American Foundation for the Blind. [www.afb.org/WorkplaceTech](http://www.afb.org/WorkplaceTech)

<sup>vii</sup> WebAIM (2021). The WebAIM Million. <https://webaim.org/projects/million>