

# Understanding the "Good Faith Efforts" Extension to the Technology Accessibility Standards Compliance Deadline

In 2021, Governor Polis signed HB21-1110 into law requiring public entities, including local governments and their instrumentalities, to develop technology accessibility plans and fully comply with accessibility rules established by the Colorado Office of Information Technology (OIT), on or before July 1, 2024. The Bill authorized civil actions against public entities that fail to do so, with civil remedies including injunctive relief, monetary damages, and fines.

On May 24, 2024, the Governor signed [HB24-1454](#) which provides immunity from HB21-1110 liability for a one-year period, from July 1, 2024 to July 1, 2025, for public entities that demonstrate "good faith efforts" toward compliance with the [technology accessibility rules](#) or toward resolution of a complaint of noncompliance. (Click [here](#) for OIT's "Plain Language Guide to the Accessibility Rules.")

While HB24-1454 creates a "good faith" defense from liability, it does not prevent public entities from being sued. In order to successfully achieve the immunity defense under HB24-1454, a public entity must demonstrate its good faith efforts towards compliance with the OIT rules by a preponderance of the evidence. These efforts must include prominent display on the public entity's public-facing webpages of (1) quarterly progress-to-date reports demonstrating "concrete and specific efforts" toward compliance, and (2) an "easy-to-find process for requesting redress for inaccessible digital products" that includes non-digital contact options.

HB24-1454 further provides that if a civil action is filed and the public entity raises this "good faith" defense, the court must then determine whether the public entity has made good faith efforts to comply with the technology accessibility rules. If the court finds it has, the court is required to dismiss the action "without prejudice," which would have the effect of allowing the lawsuit to be filed again if, for example, the plaintiff perceived the public entity had ceased engaging in good faith efforts to comply with the rules. The good faith defense created under HB24-1454 is only temporary; it expires July 1, 2025.

Overall, by delaying potential remedies against public entities that show "good faith efforts" toward compliance with technology accessibility rules, HB24-1454 may lessen the probability of lawsuits in the short-term. However, as stated above, the Bill does not prevent public entities from being sued. Further, the efforts required to establish a "good faith" defense under the Bill will require additional resources beyond those required to comply with the substantive requirements of the technology accessibility rules. As such, it is suggested that members continue to focus the bulk of their resources on developing accessibility plans and fully complying with technology accessibility rules before July 1, 2024. However, if full compliance cannot be achieved by that date, additional resources must be allocated to developing quarterly progress reports and processes for redressing inaccessible digital products, in order to demonstrate continuing good faith efforts toward compliance.

If you have questions or would like additional CIRSA assistance regarding the topics addressed in this article, contact CIRSA's Deputy Executive Director/General Counsel Sam Light at [saml@cirsa.org](mailto:saml@cirsa.org), or Assistant General Counsel Nick Cotton-Baez at [nickc@cirsa.org](mailto:nickc@cirsa.org).

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