# NYSED Accessibility Exception[[1]](#footnote-1)

## Background

The New York State Education Department (NYSED) is committed to ensuring all people with disabilities have an equal opportunity to participate in our benefits, programs, and services, including our web content. The evolution of NYSED’s web presence has led to the creation of hundreds of thousands of web pages & files, as well as numerous interactive web systems. As we have been seeking to address accessibility solutions for NYSED’s diverse web presence, staff from across the agency have raised questions about the application of accessibility standards to information, posing unique challenges. Given that accessibility standards may not be feasible nor helpful in all situations, a case may be made for considering an accessibility exemption. Such exemption requests are permissible under the undue burden / fundamental alteration clause of the [NYSED Web Accessibility Policy](http://www.nysed.gov/webaccess/policy/nysed-web-accessibility-policy), and the OCR Resolution Agreement (02-16-1195).

This document is intended to be a guide for accessibility exceptions. Offices seeking an exception must be able to provide an accessibility accommodation, since the information cannot be made accessible using conventional accessibility techniques. An accessibility accommodation is a means or method of providing information or services outside common web accessibility standards designed to assist users with disabilities in cases where the application of current web accessibility standards are neither feasible nor helpful. It is critical to understand that approval of an exception does not justify avoiding accessibility compliance for associated content that can reasonably be made accessible.

## Accommodation

Use of an accommodation is not intended to relieve program offices of their responsibility to make web content accessible. In some cases, the accommodation may be a statement that acknowledges that there is an accessibility issue and offers to help determine the needs of users with disabilities. Program areas which employ accommodation statements must establish priorities, assign their resources appropriately, and monitor communications to ensure that requests are processed quickly, typically no longer than 2 working days. Ideally, they will need a dedicated line operated by a trained responder. Program areas that fail to provide adequate services should not use accommodation statements.

When considering use of an accommodation, one can make the determination based on level of effort, document priority, longevity of web content, and audience availability. Documents that require a high level of effort, yet have a limited readership among a group with no disabilities would not have the same priority as documents of interest to a broad, unknown audience. It is important to keep in mind, the longevity of the web content, as the audience may change over time.

## Accommodation Methods

### Examples

Examples of accommodation methods may include but are not limited to one or more of the following

1. Implementing a statement on the site acknowledging the accessibility issue and providing phone and/or email support. Initial response for such contact is required within 2 business days. This method is not appropriate when the timeliness of access is critical to equal and fair treatment. In such cases, priority should be given to remediate the content into an accessible format.
2. Provide the web content in an alternate format, which is useful to the inquiring user. For example one may provide a text-only version of an inaccessible document.
3. Creating or identifying a source for creating the Braille print copy of the corresponding web content.

## Impact to Website Redesign & Accessibility Project

Websites which are undergoing redesign into Drupal will also need to consider implementing an accommodation method for content which cannot be remediated prior to the respective site going live. This content shall be identified during the web content inventory and accessibility assessment phase of the redesign project.

Websites which have already been redesigned into Drupal, will need to perform an accessibility assessment as part of their remediation. Content which cannot be promptly remediated will need to employ an accommodation method.

As part of the Website Redesign & Accessibility project, an estimated timeline for remediation of all web content will be established based on priority and resources.

## Exclusions and limits

The use of an accessibility exception and resultant accommodation may be limited when access to web content is business related. This is especially true when timeliness of access is critical to the principal of equal and fair treatment. For example, if content is posted that provides for a grant award or employment application, where the submission must be completed by a specific date, such content cannot be handled by an accommodation if it would place the disabled users at a disadvantage.

## Exception Examples

The below listing provides examples of likely exception. When necessary, make sure to reference a specific example when submitting a request for an accessibility exemption. Also, see the US HHS [accessibility accommodation site](https://www.hhs.gov/web/section-508/accessibility-accomodation/index.html#exc) for more detailed rationale of these examples.

Examples of content that may be appropriate for an accessibility exception include:

1. Excel computational spread sheets containing program modules and macros developed to perform automated analysis or to draw in data sets from external or legacy databases.
2. Password-protected sites
3. Third-party licensed PDF documents from medical and scientific journals (and conference proceeding documents)(if no-cost accessible versions cannot be linked to elsewhere on the Web)
4. Multilingual PDF documents using non-Western characters
5. Complex images and PDF tables, including static images and those supported and detailed narratives
6. Complex math, physics, and chemical notations
7. Large or complex tables, may be given an exemption based on consideration of:
	* Importance of the document
	* Size and nature of intended audience
	* Expectation that disabled persons would need access
	* Complexity of the table
	* Size of the table
8. Complex dynamic visualizations, including: medical diagnostic and research imaging technologies, 3d-models, CAD, virtual environments
9. Scanned written or poor quality historical publications/materials scanned to a digital archive
10. Archived historical legacy files
11. Translated files (presented in a language other than English)

## Exception Request Process

Staff seeking an exception should work with [the web content staff and lead webmasters](http://atwork.nysed.gov/webmasters.html) for their site to prepare the request.

1. Lead webmasters may submit request for an accessibility exception using the [NYSED SED Monitoring system](https://eservices.nysed.gov/sedmonitoring)’s Undue Burden / Fundamental Alteration request form.
	1. In the request,
		1. Include rationale for why an exception is needed, and which exception example is referenced
		2. Consider logical grouping of content is permissible by type of content.
2. Requests for exceptions will be reviewed by ITS
3. Final approval for exceptions will be made by the Commissioner or designee with fiscal authority.
4. Approved exceptions will be reviewed annually to ensure applicability.

## Posting of new or updated content

When posting of new or updated, make sure to reference the approved exception as appropriate using the [new content reporting form](http://training13.nysed.gov/form/notification-posting-new-website-content).

1. HHS site on accessibility accommodation provides basis for examples and justification for common exception (aka accessibility accommodation on HHS) https://www.hhs.gov/web/section-508/accessibility-accomodation/index.html#pas [↑](#footnote-ref-1)