



Regulatory Crystal Ball 2026

AHEAD 2026

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MEET THE SPEAKER



Judith Risch

Judy is one of the nation's foremost experts on digital accessibility. She is a twenty-year veteran of the Office for Civil Rights, including five years as Project Director of the National Digital Accessibility Task Force, where she oversaw Section 504 and ADA Title II enforcement across educational institutions and contributed to the 2024 DOJ ADA Title II digital accessibility regulation.

Judy's practice encompasses both policy guidance and technical implementation. On the policy side she assists institutions with compliance guidance, civil rights investigations, accessibility strategy and governance, and training for administrators, legal counsel, and IT staff. On the technical side she supports WCAG 2.0/2.1/2.2 conformance review and remediation, manual and automated audits (JAWS, NVDA), VPAT review, and accessible technology procurement.

Considerations and Disclaimers

- This is not legal advice. Consult your legal counsel before making any decisions.
- This presentation is speculative –events are fast-moving and hard to predict.

Road Map

- Emotional Support Animals
- Department of Education
- Regulations
- Unified Agenda
- Regulatory Actions from Agencies

Emotional Support Animals

What Law Applies

1. Fair Housing Act
2. ADA Title II and Title III
3. Section 504 — Department of Education

Fair Housing Act

- The law is unchanged — the FHA still bars disability-based housing discrimination; Congress hasn't acted and no court has excluded ESAs. What changed is HUD's enforcement, not the statute.
- Sept. 2025: HUD withdrew its 2013 and 2020 assistance-animal guidance.
- May 22, 2026 — major reversal: New HUD guidance (signed by FHEO Asst. Sec. Craig Trainor, effective immediately) will only pursue complaints for animals individually trained for disability-related work — the ADA's service-animal standard. The presumption that untrained ESAs must be accommodated is gone, and open ESA cases are frozen for review.
- HUD's rationale: prior guidance caused confusion and fueled an "ESA letter mill" industry of fraudulent claims.
- What remains: ESAs aren't illegal and valid ESA letters aren't voided — private lawsuits and state/local protections are now the main routes for tenants.

Section 504 — Department of Education

- Section 504 covers all programs, services, and activities.
- Housing is a program, service, or activity.
- Need to consider all requests.
- Section 504 permits more documentation than the Fair Housing Act. It permits an interactive process.

ADA Title II and Title III

- Definition: a dog individually trained to do work or perform tasks for a person with a disability (trained miniature horses also covered); emotional support / comfort animals do NOT qualify.
- Access rights: allowed in all areas open to the public, overriding “no pets” policies; no pet fees or deposits, and the handler controls and cares for the animal.
- The two permissible questions (when the need isn’t obvious): (1) Is the animal required because of a disability? (2) What work or task has it been trained to perform? — staff may NOT ask about the disability or demand documentation.

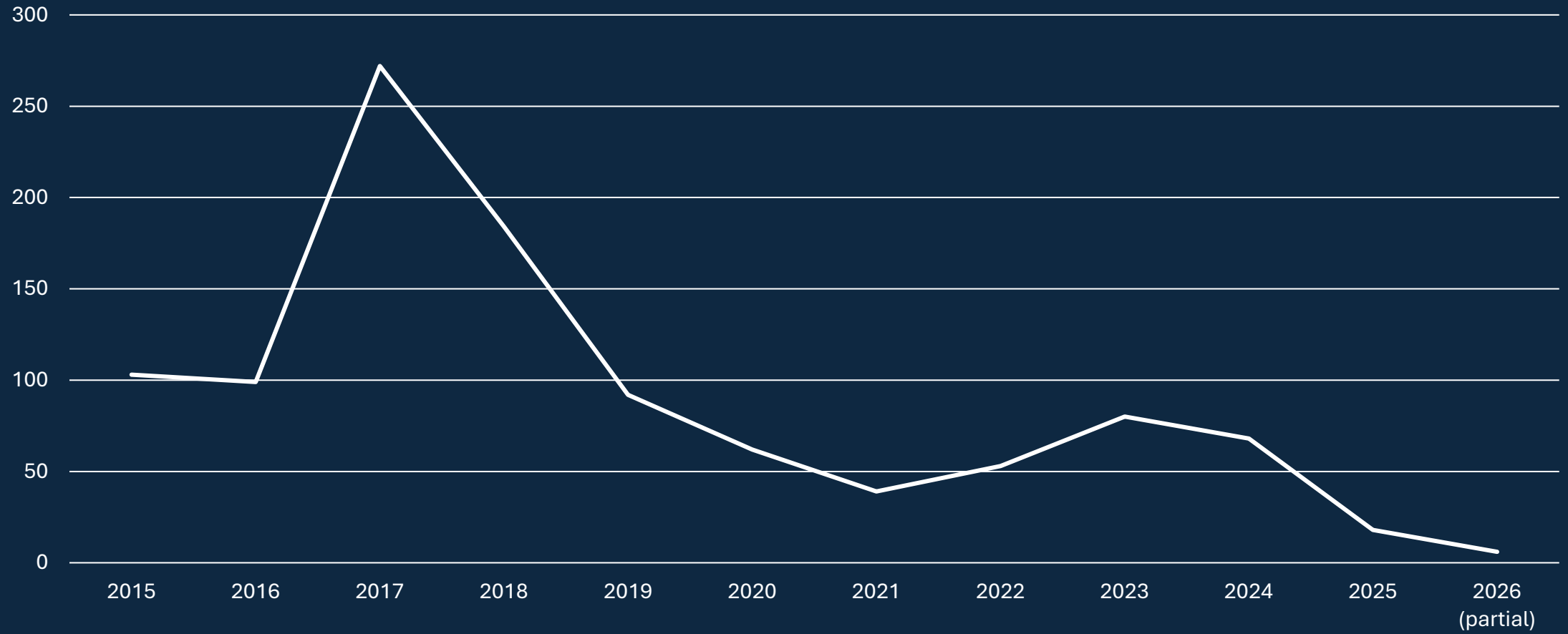
Where Do You Stand?

- Service animal — you probably need to accept.
- ESA — you need to consider under Section 504.
- Documentation?

Is There an OCR Left at the Department of Education?

- Went from 12 offices to 5.
- From March 2025 to December 2025/2026, staff from the 7 closed offices were not working for the most part, at a cost of \$38,000,000.
- It is unclear what the current staffing levels are.
- OCR office landscape remains reduced (from 12 to 5 offices); backlog continues to grow — enforcement increasingly turns on mediation (dismissals) and Section 302 resolution agreements before findings.
- There are a lot of cases being resolved by mediation, which is throwing the dismissal numbers off.
- In 2025 there were 18 postsecondary agreements; as of now in 2026 there are 4 published.

PSE Disability Agreements Over the Years at OCR



OCR Cases

Disclaimer:

- Being named in an OCR letter or agreement is routine and does not imply a violation.
- Most cases are resolved through cooperation, mediation, or voluntary agreements.
- Institutions often work with OCR to improve practices and clarify expectations.
- Names are included only to link to publicly available letters and agreements for reference.

Third Party Accommodations – Move In Day

North Carolina Agricultural and Technical State University (NC)
(11242442) 02/06/2026

- [NC Letter](#)
- [NC Agreement](#)

Georgia College and State University (GA) (04212089) 07/10/2025

- [GA Letter](#)
- [GA Agreement](#)

Sound Proofing of Testing Room

Santa Monica College (CA) (09262181) 02/23/2026

- Santa Monica Letter
- Santa Monica Agreement

Service Animals

EASTERN MAINE COMMUNITY COLLEGE (ME)
(01262083) 06/15/2026

MAINE COMMUNITY COLLEGE SYSTEM (ME)
(01262200) 06/15/2026

- Eastern Main and System Letter
- System Agreement
- Eastern Maine Agreement

Regulations

Regulatory Process Quick Overview

Typically, Agencies Create Regulations

1. The agency gives notice that it is considering regulations, and people can provide input.
2. Agency drafts regulations and does analysis of the cost of the regulations.
3. Other agencies review the draft regulations and the draft cost of the regulations.
4. Public sees the draft regulations and can comment. (About 90 days)
5. Agency looks at the comments and updates the draft regulations to reflect the public input.
6. Many other agencies get to review.
7. Final regulations are issued.

Emergency Rulemaking

The New Playbook

- This is the process Energy used last year — and it looks like the playbook going forward.
- Less notice-and-comment, more edict:
 - Direct final rules: DOE's Section 504 rescissions — no NPRM; effective July 6, 2026 after three delays.
 - Interim final rules: HHS's 504 web-accessibility extension — effective the day it published (May 11, 2026).
 - DOJ Title II Digital Accessibility regulations — effective a week after publication.

Rulemaking Directed by Executive Orders

- E.O. 14168 (sex and gender): HHS 504 gender-dysphoria rule (0945-AA27); ED Title IX rewrite (1870-AA23).
- E.O. 14281 (ending disparate impact): ED Title VI (1870-AA20) and parallel rescissions at VA, NEH/NEA/IMLS.
- E.O. 14192: nearly every disability item in the agenda is tagged “deregulatory.”
- Practical effect: shorter runways and fewer comment windows — watch the Federal Register itself, not just NPRMs.

BUCKLE UP.

This is going to be a
bumpy ride.



Unified Agenda

What Is the Unified Agenda?

- A government-wide roadmap of every regulation each federal agency is working on or planning — published twice a year (spring and fall) on [reginfo.gov](https://www.reginfo.gov) by OMB's Office of Information and Regulatory Affairs (OIRA).
- Each entry gets a Regulation Identifier Number (RIN) with an abstract, its stage (prerule, proposed rule, or final rule), a timetable of expected dates, and a “regulatory” or “deregulatory” designation.
- The fall edition also includes the Regulatory Plan — each agency's statement of its priorities for the coming year.
- It is a forecast, not a promise: dates slip and items appear and disappear between editions — but it is the best early-warning system for what is coming.
- Everything in the rest of this presentation comes from it — the links throughout go to each rule's Unified Agenda record.
- [Browse the current Unified Agenda](#)

Section 504 and ADA Actions in the Current Unified Agenda

- There is a lot on disability on this agenda.
- They are not following the typical rulemaking process.
- Typically — notice and comment.

Department of Education (OCR)

No Section 504 Update

Procedures for Investigations and Enforcement of Title VI Violations

- Would amend OCR's procedural regulations (34 CFR 100–101) governing evaluation, dismissal, investigation, and administrative enforcement under Title VI, Title IX, and Section 504 of the Rehabilitation Act — including streamlining the process for terminating federal financial assistance to institutions that intentionally violate federal civil rights laws and refuse to come into compliance.
- Because it covers 504 enforcement procedures, this action also affects disability civil rights enforcement.
- Final action scheduled for July 2026. Please note: in the last Unified Agenda they had this out by March 2026.
- [View in the Unified Agenda](#)

Elimination of Disparate Impact

Title VI and Title IX

- Would remove the Title VI and Title IX regulations that use a disparate-impact theory of race- or sex-based discrimination, to align the regulations with Supreme Court precedent requiring intentional discrimination and with E.O. 14281.
- The Department is rescinding portions of its regulations pursuant to Title VI, 42 U.S.C. 2000d-1. E.O. 14281 requires federal agencies to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible.
- Final action scheduled for July 2026. Deregulatory; included in the Regulatory Plan.
- [View in the Unified Agenda \(Title VI\)](#)
- [View in the Unified Agenda \(Title IX\)](#)

Update of Regulations of Title VI of the Civil Rights Act of 1964

- Would amend the Title VI regulations to clarify how the prohibition of race, color, and national-origin discrimination protects all individuals, including how Title VI applies to diversity, equity, and inclusion programs and to race-based, race-exclusive, or race-conscious educational programs or criteria.
- Final action scheduled for August 2026.
- [View in the Unified Agenda](#)

Related Disability Rulemakings

IDEA (Individuals with Disabilities Education Act)

- ED/OSERS • RIN 1820-AB84 • Proposed Rule Stage • IDEA, a separate statute from Section 504 and the ADA. Process: NPRM.
- [View in the Unified Agenda](#)

Department of Energy

Background and Rationale

- DOE issued a “direct final rule” on May 16, 2025, to rescind 10 C.F.R. § 1040.73.
- The rule requires federally funded buildings (new construction & renovations) to meet accessibility standards.
- Targeted standard: Uniform Federal Accessibility Standards (UFAS).
- DOE’s rationale:
 - Deemed the regulation “unnecessary and unduly burdensome.”
 - Claims Section 504 itself already prohibits discrimination.
 - Cites Trump EOs on deregulation: EO 14154 & EO 14192.

Massive Public Opposition

- 20,000+ comments submitted in opposition.
- Effective date delayed multiple times:
- July 15, 2025 → September 12, 2025 → December 10, 2025 → March 9, 2026
- Took effect July 6, 2026
- The 2026 agenda also lists a second rescission: new-construction accessibility requirements ([RIN 1903-AA24](#)).
- With the UFAS “safe harbor” gone, ADA litigation exposure for building owners may rise.
- [View in the Unified Agenda](#)

Department of Justice

ADA Actions:

Unified Agenda, September 22, 2025

- ADA Title II: Section 610 Review
- ADA Title III: Section 610 Review
- Accessibility of Web Information and Services of State and Local Government Entities

Section 610 Review

- A mandatory periodic review of existing federal regulations under the Regulatory Flexibility Act (5 U.S.C. § 610).
- The Core Requirement:
 - Agencies must review their rules once every 10 years.
 - Applies when a rule has a significant economic impact on a substantial number of small entities (small businesses, nonprofits, local governments).
- The Purpose:
 - Ensure regulations remain necessary and current.
 - Identify opportunities to reduce unnecessary burden while still achieving the rule's goals.
 - Congress's way of making agencies ask: "Does this rule still make sense?"
 - A legally required "check-up" on an existing regulation to ensure it remains effective without imposing undue burdens on small entities.
- Removed from the July 2026 Unified Agenda

Digital Accessibility — ADA Title II

- DOJ's April 2024 final rule under ADA Title II requires state and local government web content and mobile apps to meet WCAG 2.1 Level AA.
- This Agenda entry is DOJ's extension of the compliance dates (final rule published April 20, 2026): entities serving 50,000 or more people now have until April 26, 2027, and smaller entities until April 26, 2028.
- They acknowledge the interim final rule; the NPRM is To Be Determined.
- Process: Looks like they are planning a full regulatory process.
- [View in the Unified Agenda](#)

Can They Get It Done by April 26, 2027?

- Full NPRM
- An extension in 2027 and 2028
- Litigation
- Possibly nothing

Department of Health and Human Services

Section 504 – Gender Dysphoria

- Clarifies that the statutory exclusion of “gender identity disorders not resulting from physical impairments” encompasses gender dysphoria, superseding preamble language in the 2024 Section 504 final rule (RIN 0945-AA15). NPRM published December 19, 2025 (90 FR 59478); comments closed February 20, 2026; final action scheduled for September 2026. Deregulatory.
- Process: They used an NPRM process.
- [View in the Unified Agenda](#)

Section 504 – Digital Accessibility

- Interim final rule (published May 11, 2026; 91 FR 25496) extending the web and mobile app accessibility compliance dates of the 2024 Section 504 rule — to May 11, 2027 for recipients with 15 or more employees and May 10, 2028 for smaller recipients. A future NPRM may reconsider the 2024 rule. Economically significant; deregulatory.
- Process: Emergency rule with no plan or notice that new regulations would be coming.
- [View in the Unified Agenda](#)

Department of Commerce

Section 504

- Amendments to Commerce's Section 504 regulations governing federally assisted programs (the “handicap” nondiscrimination rules).
- Goals: (1) conform regulations to the strict causation standard in 29 U.S.C. 794(a); (2) remove obsolete requirements; (3) ***remove ambiguous provisions animated by a theory of disparate-impact liability***; (4) remove other unnecessary and burdensome restrictions and requirements.
- Intent: reduce regulatory complexity and burden on recipients of federal financial assistance while maintaining the core statutory prohibition against intentional discrimination solely on the basis of handicap.
- Process: Does not look like this is being done by an NPRM. Are they going to use a directed final rule?
- [View in the Unified Agenda](#)

Department of Transportation

Service Animals and Other Amendments

- Proposed amendments to DOT's ADA transportation regulations (49 CFR Part 37); updates the definition of service animal under 49 CFR 37.3 to ensure consistency across federal regulations and modes of transportation and modernizes outdated provisions.
- Process: Using NPRM.
- [View in the Unified Agenda](#)

Accessibility Standards for Buses and Vans

- Proposed adoption of updated accessibility standards for buses and vans under DOT's ADA vehicle regulations (49 CFR Part 38), based on the U.S. Access Board's updated guidelines at 36 CFR part 1192.
- Process: Using NPRM.
- [View in the Unified Agenda](#)

Department of the Treasury

Section 504: Conducted and Assisted

- Proposed action on Treasury's Section 504 regulations for federally assisted programs.
- Assisted: using the NPRM from 2017 and opening a second NPRM.
- Conducted: doing a new NPRM.
- Process: Using NPRM.
- [View in the Unified Agenda \(Assisted\)](#)
- [View in the Unified Agenda \(Conducted\)](#)

Small Business Administration

Section 504

- Proposed action on SBA's Section 504 regulations for federally conducted programs.
- Note: SBA's separate "504 Modernization" and "504 Program Updates" agenda entries concern the SBA 504 loan program, not the Rehabilitation Act.
- Process: Using an NPRM.
- [View in the Unified Agenda](#)

U.S. Access Board

Universal Changing Tables

Architectural Barriers Act

- The FAA Reauthorization Act of 2024 directs the Board to issue by May 2026 “comprehensive accessible design standards for universal changing tables,” plus standards for the privacy, accessibility, and sanitation equipment of the room (49 U.S.C. 47107(y)); applicable to medium or large hub airports seeking airport development project grants.
- Process: This is actually an ongoing process that is drafting; ANPRM closed 4/20/2026.
- [View in the Unified Agenda](#)

Section 504 – Internal to Access Board

- Will revise the Board's own Section 504 regulation (last updated in 1988) to comply with current statutory requirements and eliminate outdated language; the 504 portion will be coordinated with DOJ as required by EO 12250, and the rule will also address complaint procedures under Section 508.
- Process: Directed final rule.
- [View in the Unified Agenda](#)

Equal Employment Opportunity Commission (EEOC)

General Nondiscrimination

- Rescission of EEO Data Reporting Requirements
- There does not appear to be anything directed at disability. The NPRM looks like an elimination of EEO report filing requirements, including for higher-education staff.
- This may be the longest statement — they look to be going through full rulemaking.
- Process: Using an NPRM.
- [View in the Unified Agenda](#)

Other Related Disability Rulemakings

1. Airline Obligations to Accommodate Air Travelers with Disabilities Using Wheelchairs

- DOT/OST • RIN 2105-AF35 • Proposed Rule Stage • Air Carrier Access Act (ACAA), not the ADA or Section 504. Process: NPRM.
- [View in the Unified Agenda](#)

2. Soliciting Comments on HUD's Regulations Related to Requests for Assistance Animals as a Reasonable Accommodation (FR-6570)

- HUD/FHEO • RIN 2529-AB14 • Prerule Stage • Fair Housing Act; HUD's assistance-animal framework also intersects with Section 504 in HUD-assisted housing. Process: NPRM — October 2026.
- [View in the Unified Agenda](#)

Why Does the Change in Type of Regulation Matter?

- They are clearly not following the process that they historically have.
- This will allow them to move faster.
- The less controversial will go through a traditional rulemaking process, the more controversial will go through directed final rule making.

Conclusion

Civil Rights Are Still there

- We still need to follow disability laws.
Section 504 and the ADA are still required.
- Enforcement will turn into litigation based.
- There will not be much guidance or technical assistance forthcoming.

New Laws

- Could Congress Act
- State Laws about disability discrimination

Examples:

- California
- Colorado
- Pennsylvania
- Washington

Questions

Thank you!

Some of What I do

- Policy and Process Development
- Review of Websites and Learning Management System Content
- Recommend vendors and suggest approaches to keep costs down
- Training
- Support Tracking Data
- Procurement Processes

Thank You

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Session Evaluation

tiny.cc/8zu1101

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Your feedback helps shape future programming.

