

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Official Audit Report – Issued August 6, 2025

Appeals Court

For the period July 1, 2023 through June 30, 2024



OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

August 6, 2025

Amy Lyn Blake, Chief Justice
Appeals Court
John Adams Courthouse
1 Pemberton Square, Room 1200
Boston, MA 02108

Dear Chief Justice Blake:

Enclosed are the results of our performance audit of the Appeals Court. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2023 through June 30, 2024.

As you know, contrary to past practice, the Appeals Court refused to participate in this performance audit of your website, citing as a reason the Attorney General's November 2, 2023 letter to our office in support of the Legislature's refusal to be audited. This is a new position for the Court and departs from precedent—our office has audited the judiciary for decades. Our audit sought to examine the existing conditions of your website—its design and layout—regarding issues of compliance and accessibility. As has always been the case, our office sought to exercise no judicial power of the Appeals Court or any judicial branch official, but rather to observe and report on actions taken in the past by administrative staff members in the performance of their administrative duties.

In her 2024 State of the Judiciary Address, Chief Justice Budd remarked that maintaining public trust and confidence in the courts is essential to the success of our legal system. I agree.

Chief Justice Budd, who is a member of the Committee on Public Engagement, Trust and Confidence of the national Conference of Chief Justices and Conference of State Court Administrators, remarked in her 2024 State of the Judiciary Address that, according to "annual polls conducted for the National Center for State Courts, the percentage of people who believe that state courts provide equal justice for all 'well' or 'very well' has declined from 62% to 46% in the last 10 years."

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Chief Justice Budd also stated, “Based on focus group interviews, our Committee Report explains that quote, ‘Many believe two systems of justice exist. There is one system for those with influence, connections, and power, and another one for everyone else.’”

Again, I agree.

Moreover, Chief Justice Budd stated, “There were complaints about the courts seeming too bureaucratic and difficult to navigate.... Above all, there is a sense that courts are disconnected and out of touch with the people and local communities they serve. Rather than providers of justice for all, courts are seen as gatekeepers of a power imbalance between the haves and have-nots.”

I could not agree more with Chief Justice Budd’s 2024 State of the Judiciary Address remarks.

That is why I was both surprised and incredibly disappointed to learn of your adamant opposition to a routine audit which simply sought to shine a light on areas where the court’s website could be less “bureaucratic and difficult to navigate.” Even if the court believes it is within its right to refuse such an audit, based on the Attorney General’s most recent opinion, this complete 180 from past practice serves to further erode public trust in the courts.

We are all aware that 72% of the public recently voted for an audit of the Legislature, doubtless in part out of feeling that their government is “disconnected and out of touch from the people and local communities they serve . . . as gatekeepers of a power imbalance between the haves and have-nots.” I ask why now, of all times, would the court decide to stop participating in routine audits? Because I agree with Chief Justice Budd’s statement that “We also need to recognize that judicial independence and judicial accountability are two sides of the same coin. We must emphasize accountability and transparency in our operations. . . .” Yet, the courts are now refusing a simple audit of website accessibility.

What is the public good that could come out of this decision?

According to Chief Justice Budd, in Massachusetts, the judiciary has “been working to improve the public perception of our courts through initiatives that make the courts more accessible.”

I ask how refusing an audit from our office of website accessibility to assist disabled persons and others to be able to connect more with the courts is in line with this mission. I also ask—even if the court has its own methodology for assessing these issues—what could be so offensive about a simple audit of website accessibility that exercises no power of the judiciary.

The court’s refusal to be audited, contrary to its extensive past practice, undermines the increased transparency, accountability, and accessibility that Chief Justice Budd has recognized as being

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DIANA DIZOGLIO

paramount to maintaining the public's faith and trust in the judiciary. The court's actions in opposition to a basic website accessibility audit have most certainly damaged my faith and trust in the courts. I'm guessing that I won't be alone in expressing these sentiments and am deeply disappointed and discouraged by your decision, which directly conflicts with Chief Justice Budd's very clearly laid out statements regarding the need to help restore the public's faith and trust in the courts.

As is always the case, I am available to discuss this audit if you or your team has any questions.

Best regards,

A handwritten signature in cursive script that reads "Diana DiZoglio".

Diana DiZoglio
Auditor of the Commonwealth

TABLE OF CONTENTS

| | |
|--|----|
| EXECUTIVE SUMMARY | 1 |
| OVERVIEW OF AUDITED ENTITY | 2 |
| AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY | 7 |
| DETAILED AUDIT FINDINGS WITH AUDITEE’S RESPONSE..... | 12 |
| 1. The Appeals Court’s website was not fully accessible to all website users. | 12 |
| APPENDIX A..... | 14 |
| APPENDIX B | 15 |

LIST OF ABBREVIATIONS

| | |
|-------|--|
| EOTSS | Executive Office of Technology Services and Security |
| IT | information technology |
| OSA | Office of the State Auditor |
| W3C | World Wide Web Consortium |
| WCAG | Web Content Accessibility Guidelines |

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Appeals Court for the period July 1, 2023 through June 30, 2024.

The purpose of our audit was to determine whether the Appeals Court's website adhered to the World Wide Web Consortium's Web Content Accessibility Guidelines (WCAG) 2.1 for user accessibility, keyboard accessibility, navigation accessibility, language accessibility, error identification, and color accessibility.

Below is a summary of our finding, the effect of that finding, and our recommendations, with links to each page listed.

| | |
|--|--|
| Finding 1 Page 12 | The Appeals Court's website was not fully accessible to all website users. |
| Effect | <p>Possible effects of noncompliance with WCAG 2.1 in the areas discussed above include the following:</p> <ul style="list-style-type: none">• Regarding keyboard accessibility, if functional elements on a webpage cannot be navigated using only keyboard commands, then users with limited motor abilities may be unable to navigate to needed information.• Regarding navigation accessibility, broken or faulty hyperlinks negatively impact the user experience and make it difficult to locate specific, sought-after information. They can also limit equitable access to critical information and key online services for some users. Plus, broken or faulty hyperlinks also increase the likelihood that users may access outdated or incorrect information or may be directed to webpages that no longer exist.• Regarding language accessibility, inaccurate language attributes can pose a number of challenges. For example, this issue could cause translation software or screen readers to lose the ability to interact with or correctly translate critical content on a website, thus negatively affecting people who use these tools. |
| Recommendations Page 13 | <ol style="list-style-type: none">1. The Appeals Court should work to resolve accessibility barriers that prevent certain features from being used with only keyboard commands.2. The Appeals Court should review its webpages to ensure that all hyperlinks lead to intended information and that they provide equitable access to critical information and services that the Appeals Court offers online.3. The Appeals Court should address inaccurate language attributes that may interfere with screen reader functionality and overall digital accessibility. |

OVERVIEW OF AUDITED ENTITY

The Massachusetts Appeals Court was established in 1972 in order to create an intermediate appellate court between the Supreme Judicial Court and the lower courts, thereby reducing the Supreme Judicial Court's caseload. As the Commonwealth's court of general appellate jurisdiction, the Appeals Court reviews the decisions of lower court judges in civil and criminal cases, as well as the decisions of the Appellate Tax Board, the Industrial Accident Board, and the Commonwealth Employment Relations Board. Specifically, the Appeals Court reviews decisions brought to it by reading corresponding written arguments called briefs, and by listening to oral arguments. This helps the Appeals Court determine whether the lower court in question made any errors of law and whether those errors affected the outcome of the case in question. This is done pursuant to the Appeals Court's mission, which states,

The Massachusetts Appeals Court is committed to doing justice under the law by rendering thoughtful, well-reasoned appellate decisions in a timely and efficient manner, treating all those who come before the court fairly and impartially.

Once the Appeals Court has reviewed the decision being appealed, it creates its own decision, called an opinion. The opinion of the Appeals Court can be further reviewed by the Supreme Judicial Court. The Appeals Court comprises one chief justice and 24 associate justices and almost always sits in panels of three justices to review decisions. During fiscal years 2023 and 2024, the Appeals Court was provided \$15,406,986 in appropriations. The Office of the State Auditor has most recently completed audits of the Appeals Court in 2015 and 2020.

Massachusetts Requirements for Accessible Websites

In 1999, the World Wide Web Consortium (W3C), an international nongovernmental organization responsible for internet standards, published the Web Content Accessibility Guidelines (WCAG) 1.0 to provide guidance on how to make web content more accessible to those with disabilities.

In 2005, the Massachusetts Office of Information Technology,¹ with the participation of state government webpage developers, including developers with disabilities, created the Enterprise Web Accessibility Standards. These standards required all executive branch state agencies² to follow the guidelines in Section 508 of the Rehabilitation Act amendments of 1998. These amendments went into effect in 2001

1. The Massachusetts Office of Information Technology became the Executive Office of Technology Services and Security in 2017 following Executive Order 588 from then-Governor Charles Baker.
2. See page 4 of this audit report for information regarding the applicability of executive branch standards to the Appeals Court.

and established precise technical requirements to which electronic and information technology (IT) products must adhere. This technology includes, but is not limited to, products such as software, websites, multimedia products, and certain physical products, such as standalone terminals.

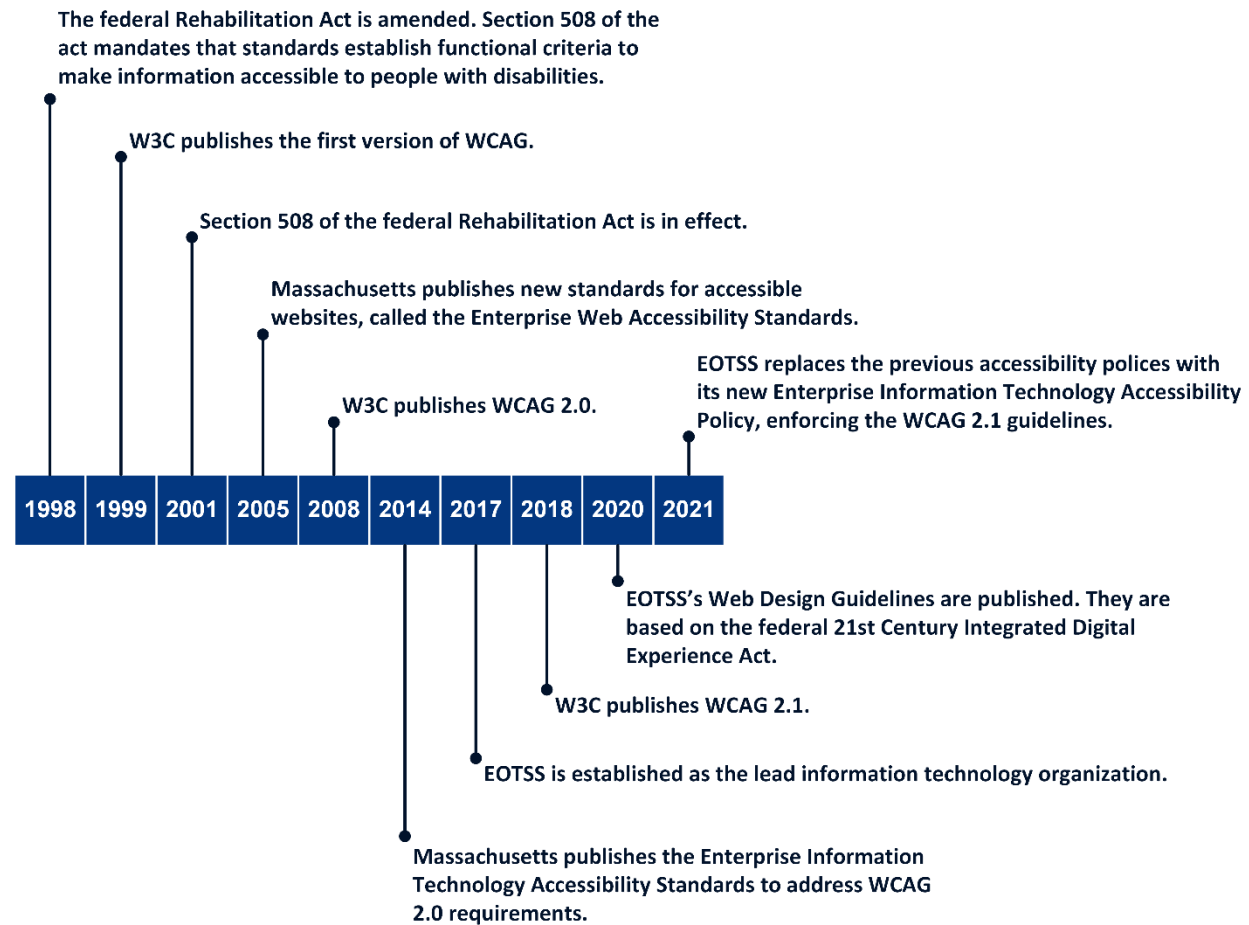
In 2008, W3C published WCAG 2.0. In 2014, the Massachusetts Office of Information Technology added a reference to WCAG 2.0 in its Enterprise Information Technology Accessibility Standards.

In 2017, the Executive Office of Technology Services and Security (EOTSS) was designated as the Commonwealth's lead IT organization for executive branch state agencies. EOTSS is responsible for the development and maintenance of the Enterprise Information Technology Accessibility Standards³ and the implementation of state and federal laws and regulations relating to accessibility. As the principal executive agency responsible for coordinating the Commonwealth's IT accessibility compliance efforts, EOTSS supervises executive branch state agencies in their efforts to meet the Commonwealth's accessibility requirements.

In 2018, W3C published WCAG 2.1, which built on WCAG 2.0 to improve web accessibility on mobile devices and to further improve web accessibility for people with visual impairments and cognitive disabilities. EOTSS published the Enterprise Information Technology Accessibility Policy in 2021 to meet Levels A and AA of WCAG 2.1.

3. EOTSS has since changed the titles and numbers of at least some of its policies and standards between the end of the audit period and the publication of this report. In this report, we reference the titles and numbers of EOTSS's policies and/or standards as they were during the audit period (unless stated otherwise).

Timeline of the Adoption of Website Accessibility Standards by the Federal Government and Massachusetts



Executive branch state agencies must comply with EOTSS's policies and standards. However, non-executive branch state agencies, such as the Appeals Court, must also comply with EOTSS's accessibility policies and standards when using an EOTSS web domain,⁴ as established by EOTSS's Website Domain Policy. Part of this policy states that **any government organization using an EOTSS web domain must comply with EOTSS's Web Design Guidelines**, which were published in 2020 and were based on the federal 21st Century Integrated Digital Experience Act. This law helps state government agencies evaluate their design and implementation decisions to meet state accessibility requirements.

4. EOTSS web domains, according to the Website Domain Policy, include Mass.gov, Massachusetts.gov, Ma.gov, State.ma.us, related subdomains (e.g., example.mass.gov), and all domains that EOTSS owns and manages.

Web Accessibility

Government websites are an important way for the general public to access government information and services. Deloitte's⁵ 2023 Digital Citizen Survey found that 55% of respondents preferred to interact with their state government services through a website instead of face-to-face interaction or a call center. Commonwealth of Massachusetts websites have millions of webpage views each month.

However, people do not interact with the internet uniformly. The federal government and nongovernmental organizations have established web accessibility standards intended to make websites more accessible to people with disabilities such as visual impairments, hearing impairments, and others. The impact of these standards can be significant, as the federal Centers for Disease Control and Prevention estimates that 1,488,012 adults (26% of the adult population) in Massachusetts have a disability, as of 2022.⁶ Among the estimated 26% of the adult population, 14% reported as having serious difficulty with cognition, 10% reported having serious difficulty with mobility, 6% reported as having deafness or serious difficulty hearing, and 5% reported as having blindness or serious difficulty seeing (even when wearing glasses).⁷ Examples of web accessibility measures include, but are not limited to, having captioning on videos to help people with difficulty hearing understand the contents of the video; having form fields describe what data needs to be inputted into them to help people who have cognitive difficulties; and ensuring that people can interact with a webpage using keyboard commands alone to help people who have difficulty with mobility.

How People with Disabilities Use the Web

According to W3C, people with disabilities use assistive technologies and adaptive strategies specific to their needs to navigate web content. Examples of assistive technologies include screen readers, which read webpages aloud for people who cannot read text; screen magnifiers for individuals with low vision; and voice recognition software for people who cannot (or do not) use a keyboard or mouse. Adaptive strategies refer to techniques that people with disabilities employ to enhance their web interaction.⁸ These strategies might involve increasing text size, adjusting mouse speed, or enabling captions.

5. Deloitte is an international company that provides tax, accounting, and audit services to businesses and government agencies.

6. This data is collected from surveys conducted using both landline telephones and cellular telephones, and all responses are self-reported.

7. The percentages do not add up to 26%, as estimated by the federal Centers for Disease Control, because of overlapping data. The self-reported survey allows individuals to report having multiple disabilities.

8. Web interaction refers to the various actions that users can take while navigating and using the internet. It encompasses a wide range of online activities, including, but not limited to, clicking on hyperlinks, submitting forms, posting comments on webpages, and engaging with web content and services in other forms.

To make web content accessible to people with disabilities, developers must ensure that various components of web development and interaction work together. This includes text, images, and structural code; users' browsers and media players; and various assistive technologies.

Accessibility Features of a Website⁹

A website's header should appear throughout an entire website and contain hyperlinks to main content areas.

Alternative text should provide a description of any images present so that screen readers can describe those images.

Properly labeled fields where a user can enter text allow screen readers to read aloud the types of information that the user should enter.

Headings organize web content in a logical manner and allow users to navigate that content easily.

Screen reader users and people with motor disabilities rely in part on the Tab key to navigate between major portions of a website's content.

The screenshot shows the 'Appeals Court Help Center' page on Mass.gov. Red brackets and boxes highlight specific accessibility features: the top navigation bar (Menu, Select Language, Contrast Settings, State Organizations), the search bar, the breadcrumb trail (Legal & Justice > Courts Self-Help > Civil Appeals), the 'OFFERED BY' section (Appeals Court, Massachusetts Court System), the main heading 'Appeals Court Help Center' with its subheading 'Appeals Court Resources for Lawyers and Self-Represented Litigants', a descriptive paragraph about the center's resources, a 'What would you like to do?' section with 'Top tasks' (Get Information for Self-Represented Parties, Learn About Summary Process (Eviction) Appeals, Use On-Line Questionnaire to Prepare Appeals Court Filings, Get Answers to Frequently Asked Questions), a 'Feedback' button, and the footer (All Topics, Site Policies, Public Records Requests, copyright notice, and privacy policy link).

9. We resized this webpage to fit in this audit report. To see the unaltered webpage, visit <https://www.mass.gov/appeals-court-help-center>.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of certain activities of the Appeals Court for the period July 1, 2023 through June 30, 2024.

We conducted this performance audit in accordance with generally accepted government auditing standards,¹⁰ except for the following areas:¹¹

- Paragraph 8.39 of Chapter 8 (which pertains to determining whether internal controls are significant to the audit objectives);
- Paragraphs 8.59–8.67 of Chapter 8 (which pertains to information systems controls considerations);
- Paragraphs 8.72–8.76 of Chapter 8 (which pertains to fraud inquiries);
- Paragraphs 8.77 and 8.78 of Chapter 8 (which pertains to identifying sources of evidence and the amount and types of required evidence);
- Paragraph 8.80 of Chapter 8 (which pertains to determining whether other auditors have conducted, or are conducting, audits that could be relevant to the current audit objectives);
- Paragraph 8.90 of Chapter 8 (which pertains to obtaining sufficient, appropriate evidence to provide a reasonable basis for addressing the audit objectives and supporting their findings and conclusions); and
- Paragraph 9.50 of Chapter 9 (which pertains to obtaining and reporting the views of responsible officials from the auditee concerning the findings, conclusions, and recommendations in the audit report, as well as any planned corrective actions).

We believe that, except for the information outlined in the “Scope Limitations” section, the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

10. Generally accepted government auditing standards is an auditing term used to refer to the standards issued by the US Government Accountability Office, which are listed in its *Government Auditing Standards*. (The version referenced in this report is the April 2021 technical update, GAO-21-368G.) These standards provide a framework for conducting high-quality audits of government programs and entities. They outline the ethical principles, professional qualifications, and performance requirements that auditors must follow when conducting financial and performance audits—as well as other types of engagements—to ensure accountability and transparency.

11. We were unable to satisfy the requirements of the listed generally accepted government auditing standards because the auditee refused to participate in the audit.

Below is our audit objective, indicating the question we intended our audit to answer; the conclusion we reached regarding our objective; and, if applicable, where our objective is discussed in the audit findings.

| Objective | Conclusion |
|---|--------------------------|
| 1. Did the Appeals Court’s website adhere to the World Wide Web Consortium’s (W3C’s) Web Content Accessibility Guidelines (WCAG) 2.1 for user accessibility, keyboard accessibility, navigation accessibility, language accessibility, error identification, and color accessibility? | No; see Finding <u>1</u> |

Scope Limitations

Paragraph 9.12 of the US Government Accountability Office’s *Government Auditing Standards* states, “Auditors should . . . report any significant constraints imposed on the audit approach by information limitations or scope impairments.” While performing the audit, we encountered the scope limitations described below.

OSA has completed performance audits of the Appeals Court in the past. Two such audits were released in 2015 and 2020. The 2015 Appeals Court audit reviewed “whether . . . the Appeals Court’s case-management system was operating effectively” and whether “appeals were managed, heard, and decided in a timely manner,” and whether “appeal entry fees were properly waived in accordance with applicable requirements.” The 2020 Appeals Court audit “examined the Appeals Court’s compliance with Section 4 of Chapter 262 of the General Laws and Rules 8a–8f of the *Massachusetts Rules of Electronic Filing*” as well as “the efficiency of the electronic document filing system eFileMA,” and the 2020 audit also “assessed the [Appeals Court]’s fee collection.”

In response to OSA’s letter of intent to conduct a performance audit (see [Appendix A](#)), the chief justice of the Appeals Court formally declined participation via written correspondence (see [Appendix B](#)). The chief justice asserted that the audit would exceed OSA’s statutory authority under Section 12 of Chapter 11 of the General Laws.

The chief justice further contended that WCAG 2.1, established by W3C and required by EOTSS, are not government regulations and, therefore, are not enforceable against the Appeals Court. The chief justice maintained that OSA does not have authority to require compliance with, or to audit against, WCAG 2.1. Instead, the Appeals Court stated that it follows the requirements of the US Department of Justice’s Final Rule, Section 35 of Title 28 of the Code of Federal Regulations (Civil Rights Division Docket No. 144, 89

Final Rule 31320),¹² which uses Level AA of WCAG 2.1 as the technical standard for accessibility under Title II of the Americans with Disabilities Act. The deadline established by the US Department of Justice to ensure that websites are compliant with Levels A and AA of WCAG 2.1 is April 24, 2026.

Additionally, while the Enterprise Information Technology Accessibility Policy, issued by the Executive Office of Technology Services and Security (EOTSS) in 2021, requires agencies using EOTSS services, such as Mass.gov, to comply with Levels A and AA of WCAG 2.1, the chief justice of the Appeals Court argued that this policy does not create a legal obligation for the Appeals Court to follow WCAG 2.1 and reaffirmed that OSA does not have enforcement authority in this regard.

Consequently, the Appeals Court declined to allow us to conduct our audit, even though OSA made efforts to resolve the jurisdictional issue by holding meetings with Appeals Court representatives to clarify this issue. As a result, we were denied access to essential information required to accomplish part of our audit objective.

As a result of the Appeals Court's denial to grant us access to essential information required to accomplish our audit objective, we independently compiled a list of URLs¹³ from the Appeals Court's Mass.gov website¹⁴ in order to test our objective. When selecting URLs, we relied on our professional judgement¹⁵ and the webpage tagging system within Mass.gov. The list of URLs obtained through this approach may not be a complete population of the Appeals Court's webpages.

Web Accessibility

To determine whether the Appeals Court's website adhered to the W3C's WCAG 2.1 for user accessibility, keyboard accessibility, navigation accessibility, language accessibility, error identification, and color accessibility, we took the actions described below. First, we performed accessibility testing procedures on

12. You can find the text of this rule [here](#).

13. A URL uniquely identifies an internet resource, such as a website.

14. Webpages within Mass.gov can be tagged with the names of Commonwealth entities, thus indicating which Commonwealth entity authored the webpage. In the case of the Appeals Court, a user would see something like "Offered by Appeals Court" underneath the website header and above the webpage heading. See the "[Accessibility Features of a Website](#)" image in this report for an example of this.

15. Professional judgement, in this situation, involved auditors reviewing the content of the sampled webpages, as well as the path to navigate to said webpage. For example, the webpage "Appeals Court Resource Flyer 7-17.pdf | Mass.gov" (see <https://www.mass.gov/doc/resources-flyer-for-self-represented-pro-se-litigants>) is a webpage that auditors could navigate to using only hyperlinks within webpages tagged with "Offered by Appeals Court."

a random, nonstatistical¹⁶ sample of 60 Appeal Court webpages out of a population of 214. We performed the procedures described below on the sampled webpages.

User Accessibility

- We determined whether content on each website could be viewed in both portrait and landscape modes.
- We determined whether content on each webpage was undamaged and remained readable when zoomed in to both 200% and 400%.

Keyboard Accessibility

- We determined whether all elements¹⁷ of each webpage could be navigated using only keyboard commands.
- We determined whether any elements on each webpage prevented a user from moving to a different element when using only keyboard commands to navigate the webpage in question.
- We determined whether the first focusable control¹⁸ on each webpage was a hyperlink that would redirect users to the main content of the webpage.

Navigation Accessibility

- We determined whether each webpage contained a title that was relevant to the webpage's content.
- We determined whether there was a search function present to help users locate content.
- We determined whether hyperlinks correctly navigated to the intended webpages.
- We determined whether headings within webpages related to the content of the header's section.

Language Accessibility

- We determined whether any video content found within each webpage had all important sounds and dialogue captioned.

16. Auditors use nonstatistical sampling to select items for audit testing when a population is very small, the population items are not similar enough, or there are specific items in the population that the auditors want to review.

17. An element is a part of a webpage that contains data, text, or an image.

18. The first focusable control is the first element a user will be brought to on a webpage when navigating with a keyboard. If first focusable control also redirects users to the main content of a webpage, then it is known as a bypass block or a skip link.

- We determined whether the words that appeared on each webpage matched the language attribute¹⁹ to which the webpage in question was set.
- We determined whether any webpage sections that contained language differing from that to which the webpage was set contained their own specified language attribute.

Error Identification

- We determined whether mandatory form fields alerted users if they left these fields blank.
- We determined, for form fields that required a limited set of input values, whether users were alerted if invalid values were entered into these types of fields.
- We determined whether there were labels for any elements that required user input.
 - We also determined whether these labels were programmed correctly.
- We determined whether examples were presented to assist users in correcting mistakes (for example, a warning when entering a letter in a field meant for numbers).

Color Accessibility

- We determined whether there was at least a 3:1 contrast in color and additional visual cues to distinguish hyperlinks, which WCAG recommends for users with colorblindness or other visual impairments.

We used nonstatistical sampling methods for testing and therefore did not project the results of our testing to any corresponding populations.

For this objective, we found certain issues during our testing; see Finding 1 for more information.

The Appeals Court's denial to grant us access to essential information materially affected our ability to carry out all necessary procedures in the bulleted list above, including a data reliability assessment. Therefore, in accordance with generally accepted government auditing standards, this report discloses a scope limitation.

19. A language attribute (also known as a language tag) identifies the native language of the content on the webpage or PDF (e.g., a webpage in English should have an EN language attribute). The language attribute is listed in the webpage's or PDF's properties. This, among other things, is used to help screen readers use the correct pronunciation for words.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Appeals Court's website was not fully accessible to all website users.

The Appeals Court's website was not fully accessible for all website users. We determined that 9 (15%) webpages out of our sample of 60 were not in accordance with the Web Content Accessibility Guidelines (WCAG). Of these 9 webpages, we determined that 2 (3%) webpages contained functional elements that could not be navigated using only keyboard commands, 5 (8%) webpages contained hyperlinks that did not lead to intended information, and 2 (3%) webpages contained inaccurate language attributes.

Possible effects of noncompliance with WCAG 2.1 in the areas discussed above include the following:

- Regarding keyboard accessibility, if functional elements on a webpage cannot be navigated using only keyboard commands, then users with limited motor abilities may be unable to navigate to needed information.
- Regarding navigation accessibility, broken or faulty hyperlinks negatively impact the user experience and make it difficult to locate specific, sought-after information. They can also limit equitable access to critical information and key online services for some users. Plus, broken or faulty hyperlinks also increase the likelihood that users may access outdated or incorrect information or may be directed to webpages that no longer exist.
- Regarding language accessibility, inaccurate language attributes can pose a number of challenges. For example, this issue could cause translation software or screen readers to lose the ability to correctly translate critical content on a website, thus negatively affecting people who use these tools.

Authoritative Guidance

The World Wide Web Consortium's WCAG 2.1 states,

Success Criterion 2.1.1 Keyboard (Level A)

All functionality of the content is operable through a keyboard interface without requiring specific timings for individual keystrokes, except where the underlying function requires input that depends on the path of the user's movement and not just the endpoints. . . .

Success Criterion 2.4.5 Multiple Ways (Level AA)

More than one way is available to locate a web page within a set of web pages except where the web page is the result of, or a step in, a process. . . .

Success Criterion 3.1.2 Language of Parts (Level AA)

The human language of each passage or phrase in the content can be programmatically determined except for proper names, technical terms, words of indeterminate language, and words or phrases that have become part of the vernacular of the immediately surrounding text.

Reasons for Issue

Due to the issues referenced in the "[Scope Limitations](#)" section, we were unable to obtain a cause from the Appeals Court as to why these issues occurred.

Recommendations

1. The Appeals Court should work to resolve accessibility barriers that prevent certain features from being used with only keyboard commands.
2. The Appeals Court should review its webpages to ensure that all hyperlinks lead to intended information and that they provide equitable access to critical information and services that the Appeals Court offers online.
3. The Appeals Court should address inaccurate language attributes that may interfere with screen reader functionality and overall digital accessibility.

Auditee's Response

In a letter to the Office of the State Auditor (OSA) on November 20, 2024 (see [Appendix B](#)), the Appeals Court stated that it "respectfully declines to comply with the proposed audit."

Auditor's Reply

OSA's position is that the judiciary is subject to audit as outlined in Section 12 of Chapter 11 of the General Laws. There is a substantial historical record of the OSA auditing the judiciary, including, most recently, the Office of Jury Commissioner (issued September 20, 2024) and the Supreme Judicial Court (issued June 2, 2023). Additionally, OSA last audited the Appeals Court on November 2, 2020. The response received to this audit represents a significant deviation from historical practice. OSA continues to make itself available to the Appeals Court and encourages it to comply with Section 12 of Chapter 11 of the General Laws to help make government work better and bolster public confidence in the government funded by the People's tax dollars.

APPENDIX A

The following is the letter of intent to conduct a performance audit that we sent to the Appeals Court.



DIANA DIZOGLIO
AUDITOR

The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

STATE HOUSE, ROOM 230
BOSTON, MASSACHUSETTS 02133

TEL (617) 727-2075
FAX (617) 727-3014

2025-1101-3I

November 1, 2024

The Honorable Amy Blake, Chief Justice
Appeals Court
John Adams Courthouse, 1 Pemberton Square
Room 1200
Boston, MA 02108

Dear Chief Justice Blake:

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, we will be conducting a performance audit of your organization. We intend to commence this audit on or around November 4, 2024.

The Generally Accepted Government Auditing Standards (GAGAS), commonly referred to as the "Yellow Book," are issued by the Government Accountability Office (GAO) in the United States. These standards apply to both financial and performance audits of government agencies. Our audit will be conducted in accordance with these standards and will include, but not be limited to, determining whether the Appeals Court websites were accessible in compliance with the Web Content Accessibility Guidelines (WCAG) during the audit period from July 1, 2023, through June 30, 2024. An engagement letter will be provided to your organization after my team meets with your management team and conducts inquiries and walkthroughs of the relevant areas.

My office will be in touch to arrange an entrance conference, which will be scheduled for the week of November 4, 2024.

Sincerely,

Modesta Roshi

Modesta Roshi, Director
IT Audit Unit

cc: The Honorable Heidi Brieger, Chief Justice, EOTC
Thomas Ambrosino, Court Administrator, EOTC
Michael J. McKay, Assistant CFO of Audit and Internal Controls, EOTC
The Honorable Ariane Vuono, Associate Justice, Appeals Court
Gina L. DeRossi, General Counsel, Appeals Court
Paul Tuttle, Clerk, Appeals Court

APPENDIX B

The following is the letter the Appeals Court sent to the Office of the State Auditor, formally declining participation in the audit.



AMY LYN BLAKE
Chief Justice

Commonwealth of Massachusetts

THE APPEALS COURT
John Adams Courthouse
One Pemberton Square
Boston, MA 02108

(617) 725-8092
amy.blake@jud.state.ma.us

November 20, 2024

VIA EMAIL AND FIRST-CLASS MAIL

James A. Svizzero, Senior Auditor
Office of the State Auditor
Massachusetts State House
Room 230
Boston, MA 02133

RE: *Response to Office of State Auditor's November 1, 2024, letter*

Dear Mr. Svizzero:

This letter responds to your November 1, 2024, letter to the Honorable Amy Lyn Blake, Chief Justice of the Appeals Court, announcing an audit to determine "whether the Appeals Court websites were accessible in compliance with the Web Content Accessibility Guidelines (WCAG) during the audit period from July 1, 2023, through June 30, 2024." Modesta Roshi Letter dated November 1, 2024.

The Office of the State Auditor ("SAO") may "audit the accounts, programs, activities and functions directly related to the aforementioned accounts of all departments, offices, commissions, institutions and activities of the commonwealth[" G.L. c. 11, § 12 (emphasis added.) As confirmed by the Attorney General, this statute only empowers the SAO to audit the Executive Branch. Letter from Andrea Joy Campbell, Attorney General to Diana DiZoglio, State Auditor, to at 7 (November 2, 2023) ("AG letter"). ("I adopt the views of my predecessors that the word 'department' in statutes such as these should in general encompass only executive branch departments.") As an independent branch of government, the Judicial Branch is not under the SAO's purview.

The SAO is also statutorily authorized to "audit the accounts, programs, activities and functions directly related to the aforementioned accounts of all departments, offices, commissions, institutions and activities of the commonwealth[" G.L. c. 11, § 12 (emphasis added.) The above-underlined adjective phrase is proscriptive and limits the scope of audits to matters directly related to subject governmental entities' accounts. The scope of the present audit, including "whether the Appeals Court websites were accessible in compliance with the Web Content Accessibility Guidelines (WCAG) during the audit period from July 1, 2023, through June 30, 2024" exceeds matters "directly related to the [Appeals Court's] accounts."

The WCA Guidelines' creators consist of stakeholders, including disability advocacy groups, government agencies, and accessibility research organizations, which collaborated to create these guidelines. The WCA Guidelines are not government regulations or otherwise enforceable against the Appeals Court. Further, the SAO has no authority to require the Appeals Court to comply with these guidelines or to audit the Appeals Court's compliance with them.

Further, the Appeal's Court is already engaged in complying with Department of Justice's Final Rule, 28 CFR Part 35, CRT Docket No. 144, 89 FR 31320 (effective June 24, 2024) <https://www.federalregister.gov/documents/2024/04/24/2024-07758/nondiscrimination-on-the-basis-of-disability-accessibility-of-web-information-and-services-of-state>. These federal regulations establish standards for website accessibility for disabled people. (The Appeals Court will benefit from Trial Court's posting a Request for Proposals ("RFP") to procure a vendor to do an accessibility audit across all websites used by the Judicial Branch.) The Department of Justice has authority pursuant to Title II of the ADA to enforce these regulations against the Appeals Court effective April 24, 2026. The Appeals Court has no duty to comply with the alternative WCA Guidelines. The SAO also has no authority to enforce these Guidelines.

The Appeals Court further objects to the SAO's conducting a "performance audit" of any Appeals Court department. The Appeals Court asserts that G.L. c. 11, § 12's explicitly limiting phrase "directly related to the aforementioned accounts" forecloses any argument that G.L. c. 11, § 12 empowers the Auditor to conduct performance audits of the Judicial Branch. The non-governmental Web Content Accessibility Guidelines bear no relation to the Appeals Court's accounts.

The scope of the proposed audit focuses on unenforceable guidelines and would exceed the scope of the SAO's statutory authority. Therefore, the Appeals Court is taking a position consistent with that taken by the Massachusetts Trial Court and hereby respectfully declines to comply with the proposed audit.

If you have any further questions feel free to contact me or my Court Administrator, Gina L. DeRossi. at (617) 725-8098.

Thank you.

Very truly yours,



Amy Lyn Blake, Chief Justice

cc: Gina L. DeRossi, Esq., Court Administrator
Daniel Sullivan, Esq., Trial Court General Counsel