Institutional Compliance: Responding to Online Accessibility Legal Issues

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Presenters: Kasey Fleetwood and Cheryl Irvin

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Southern New Hampshire University

Topics

- Accessibility Law

- Legal Actions Against Institutions

- Web Content Accessibility Guidelines (WCAG)

- Who Benefits from Accessibility?

- Conducting an Accessibility Audit

- Lessons Learned from the SNHU Accessibility Audit

- SNHU's Electronic Information Technology (EIT) Initiative

Primary Sources of Federal Disability Law

Rehabilitation Act of 1973 (Sections 504 & 508)

A person cannot be excluded solely due to disability or discriminated against if

- disabled (or regarded as disabled), AND

- otherwise qualified to participate in federally funded program

Americans with Disabilities Act of 1990 (ADA) (Amended 2008)

Cannot discriminate against an individual on the basis of disability

Department of Justice (DOJ) / Department of Education (DOE)

Provide technology in an equally effective and equally integrated manner

Benchmarks for Technology Accessibility

- Section 504 and ADA do not provide direct measurable standards to ensure the accessibility of technology for universities

- Section 508 is a law that applies to federal agencies but is commonly used as a national accessibility benchmark

  - Recent "refresh" of 508 Standards references Web Content Accessibility Guidelines (WCAG 2.0)

  - WCAG 2.0 has a specific set of standards to demonstrate compliance with the law (WCAG 2.1 is expected to be released June 2018)

  - Voluntary Product Accessibility Template (VPAT)—Vendors apply the WCAG 2.0 benchmark to their products

Who Enforces Disability Law for Institutions?

- Department of Education (Office of Civil Rights) enforces Section 504 with institutions that receive federal financial assistance from the Department of Education

- Department of Justice (Civil Rights Division) enforces Title II & III of the ADA

  - Title II covers public colleges and universities

  - Title III covers private colleges and universities

- Aggrieved individuals can also file private lawsuits, and often work with disability advocacy groups and plaintiff's law firms to enforce their rights

Colleges with Recent Enforcement Actions or Lawsuits

- Arizona State University
- Atlantic Cape Community College
- Florida State University
- George Mason University
- Harvard
- Maricopa Community College District
- Massachusetts Institute of Technology
- Mesa Community College
- Miami University (Ohio)

- North Carolina State University
- Northwestern University
- Ohio State University
- Princeton University
- Strayer University
- University of California at Berkeley
- University of Montana
- University of Phoenix
- Wichita State University

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What is WCAG?

Web Content Accessibility Guidelines (WCAG)

- The guidelines were developed by the Web Accessibility Initiative (WAI) formed by the World Wide Web Consortium (W3C)

- 4 main areas: Perceivable, Operable, Understandable, Robust (POUR)

- Each area provides guidelines and each guideline has success criteria

- Success criteria are used for conformance requirements and are divided into 3 levels: Level A, Level AA, and Level AAA (each level encompasses the level below plus additional requirements at the higher level)

  - Majority of resolution agreements specifically direct institutions to meet the WCA 2.0 Level AA standards

Who Benefits from Accessibility?

- Blind / Low vision

- Deaf / Hearing impaired

- Keyboard dependent

- Neurological reactions (epilepsy, migraines)

- Intellectual disabilities

However, people without disabilities also benefit from accessibility

- Non-native English speakers benefit from captions and written content

- Multiple learning styles benefit from visual, auditory, and tactile presentations

Conducting an Accessibility Audit

- Identify the assets for the audit (i.e., public facing website, library content, student gateway portal, etc.)

- Convene a working group that includes representation from the assets to be audited

- Task the working group with identifying ADA accessibility audit firms

- Work with your procurement office on the Request for Proposals (RFP)

- Conduct interviews with the firms who respond to the RFP and vet references

- Determine timeline for audit completion

- Task the asset owners with mitigating audit findings and share lessons learned throughout the organization to raise awareness and understanding of accessibility

Lessons Learned from the SNHU Accessibility Audit

- Use page regions (main navigation & sub-navigation) and aria labels to define the region

- Nest heading ranks level (h1 – most important, h6 – least important)

- Include tooltips to improve navigation links

- Ensure all images have alt-tag descriptions

- Linked documents (such as PDFs) must be accessible

- Be mindful of the use of color and color contrast

- Ensure accessible keyboard navigation for non-mouse users

- Implement a defined focus box for keyboard navigation

- Do not use images that flash more than three times per second

SNHU's EIT Commitments

- Create and implement a long range and encompassing Electronic Information Technology (EIT) accessibility plan that includes universal design concepts

- Document current state and the strategic plan for universal design and accessibility

- Document and enhance the accessibility of all EIT for students, prospective students, employees, guests and visitors

- Review course EIT content (online and face-to-face); create a remediation plan

- Complete a prioritized technology inventory, conduct an accessibility audit, and create a remediation plan

SNHU's EIT Commitments (continued)

- Create training documents on accessibility topics such as making documents, videos and webpages accessible

- Provide initial and ongoing annual training to staff and faculty

- Hire an EIT Coordinator to manage the oversight and continual review of our EIT's to ensure accessibility

- Adopt EIT procurement procedures requiring accessible EIT and holding the vendor accountable for remediation of accessibility issues

- Develop master guidelines for setting up EIT in physical spaces

- Enhance the accessibility of kiosks, vending machines, digital signage, etc.

- Create an Accessibility webpage that includes a procedure for barrier reports

We are happy to answer
any questions you may have for us.

Thank you!