



Accessibility by Design Now and in the Near Future

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Objectives

- Following this presentation, participants will be able to...
 - Identify the existing standards and how they impact online course delivery,
 - Discuss current and past legal actions related to the Americans with Disabilities Act (ADA);
 - Apply ADA standards to common course design scenarios;
 - Develop a pro-active plan to address ADA requirements.



Existing Standards

What does the law say?

In 1998, Congress amended the Rehabilitation Act of 1973 to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. The law applies to all Federal agencies when they develop, procure, maintain, or use electronic and information technology. Under Section 508, agencies must give disabled employees and members of the public access to information that is comparable to access available to others.

<http://www.section508.gov/content/learn/laws-and-policies>

What does the law say?

The original intention of section 508:

- Section 508 was designed to give disabled federal employees comparable access to resources.

Not to be confused with section 504:

- Section 504 prohibits federal agencies, programs, or activities from discriminating and requires reasonable accommodation for qualified individuals with disabilities.

What does the law say?

- The Americans with Disabilities Act (ADA) states that “...instruction provided as distance education is subject to the requirements that may be imposed by the Americans with Disabilities Act (42 U.S.C. s 12100 et seq.) and **section 508 of the Rehabilitation Act of 1973, as amended** (29 U.S.C. s 794d).

Key point: Section 508 and 504 are the standards applied by the ADA.

<http://online.pasadena.edu/faculty/hb/coursequality/>

Accessibility and Accommodation—What's the Difference?

- Accessibility is what we should expect to be ready for us without asking or planning ahead. It can be provided by following an easy to implement set of standards and practices that make "adaptation" unnecessary. We can benefit from accessibility without announcing or explaining our disabilities.

<http://disabilitythinking.blogspot.com/2013/08/accessibility-and-accommodation.html>

Accessibility and Accommodation—What's the Difference?

- Accommodation is for adaptations that can't be anticipated or standardized. They are different for each individual. Although we should expect there to be a general *willingness* to accommodate us wherever we go, we can't expect actual, specific accommodations unless and until we ask for them. We do have to announce, and may have to explain our disabilities a bit in order to get accommodations.

<http://disabilitythinking.blogspot.com/2013/08/accessibility-and-accommodation.html>

What does the law say?

Section 508 is currently under revision. The proposed rule includes significant changes that would:

- incorporate the WCAG 2.0 and apply associated success criteria to websites as well as to offline electronic documents and software;
- require real-time text (RTT) functionality (text that is transmitted character by character as it is being typed) for products providing real-time, two-way voice communication (think phone calls);
- specify the types of non-public facing electronic content covered; and
- further detail the required compatibility of covered technologies, including operating systems, software development toolkits, and software applications with assistive technology.

<http://www.access-board.gov/guidelines-and-standards/communications-and-it/about-the-ict-refresh/overview-of-the-proposed-rule>

What does the law say?

- What, exactly, is WCAG 2.0 and why does it matter?
 - The World Wide Web Consortium (W3C) is an international community where member organizations, a full-time staff, and the public work together to develop Web standards.
(<http://www.w3.org/Consortium/>)
 - W3C developed the Web Content Accessibility Guidelines and revised them to version 2.0 in December of 2008.
(<http://www.w3.org/TR/WCAG20/>)
 - Until this year, the guidelines were just that...guidelines. The new implementation of Section 508 would make them (presumably) enforceable.

What does the law say?

- According to Timothy Creagan, Senior Accessibility Specialist with the US Access Board...

Until clear guidelines for education are accepted and established, WCAG 2.0 is the best set of guidelines to follow.

ADA to Section 508 to WCAG 2.0

- ADA adopted Section 508 as its standard;
- Section 508 is adopting WCAG 2.0 as its standard;

Do I follow ADA requirements, Section 508 requirements, or WCAG 2.0 requirements?

Yes.

ADA to Section 508 to WCAG 2.0

What's the timeline for revisions to ADA to be implemented and enforced?

According to Creagan, now that public hearings are over, several approvals must be obtained, budgeting must be approved, and then a final iteration accepted. The process is lengthy and mired in red tape; no clear date of implementation is imminent.

What other standards apply?

- Section 504 is often referred to along with Section 508. If Section 508 is about accessibility, Section 504 is about accommodations. (<http://www.hhs.gov/web/section-508/what-is-section-504/index.html>)
- Quality Matters standard 8.3 briefly addresses accessibility: “The course provides alternative means of access to course materials in formats that meet the needs of diverse learners.”
 - Although the QM rubric provides this general guideline, the annotation is far too narrow in scope to ensure legal compliance.
 - QM rubric:
<https://www.qualitymatters.org/node/2305/download/QM%20Standards%20with%20Point%20Values%20Fifth%20Edition.pdf>



The Harvard/MIT Lawsuit and its Implications

The Backstory

In 2010, the Justice Department's Civil Rights Division and the Education Department's Office for Civil Rights sent a joint letter to university and college presidents saying federal disability laws required that "individuals with disabilities must be provided with aids, benefits or services that provide an equal opportunity to achieve the same result or the same level of achievement as others."

- NOTE: The letter references section 504 (accommodations) six times, but no mention is made of section 508 (accessibility).
- The topic that prompted the letter was electronic book readers.
- The letter: http://www.ada.gov/kindle_ltr_eddoj.htm

<http://www.nytimes.com/2015/02/13/education/harvard-and-mit-sued-over-failing-to-caption-online-courses.html>

The Lawsuit

- Filed February, 2015
- Plaintiff: National Association for the Deaf
- Laws cited: ADA and the Rehabilitation Act
- Defendants: Harvard and MIT
- Complaint: The complaint against Harvard cites YouTube videos, podcasts, and in particular MOOCs available through the online learning platform EdX as examples of the “thousands of videos and audio tracks publicly available for free to anyone.” EdX offers courses that are free and open to the public, but without captions, the complaint says.

<http://www.thecrimson.com/article/2015/2/13/lawsuit-online-edX-discrimination/>

The Lawsuit

The complaint against Harvard alleges that the University has “largely denied access to this content to the approximately 48 million—nearly one out of five—Americans who are deaf or hard of hearing.” According to the complaint, a significant amount of Harvard’s online content does not provide proper captioning and is thus inaccessible to individuals with hearing impairments.

<http://www.thecrimson.com/article/2015/2/13/lawsuit-online-edX-discrimination/>

The Outcome

- EdX entered into a settlement agreement with the Department of Justice in April and will address alleged violations of the Americans with Disabilities Act.
- The private lawsuit remains unresolved.
- Bill Lee, lawyer for the National Association for the Deaf: “I think it’s a clear indication from the Department of Justice, which does have the duty of enforcing the ADA, that it believes online content is subject to the ADA.”

<http://www.thecrimson.com/article/2015/4/3/edX-settles-department-justice/>

The Outcome

- The settlement will require edX to make “significant modifications” to its website, mobile applications, and content management system.
- The settlement will require edX to make its website “fully accessible” within 18 months. This will entail providing “accurate captioning for the deaf, oral navigation signals for the blind, and programming changes so those with dexterity disabilities can navigate content without struggling with a hand-operated mouse,” according to the release.

<http://tech.mit.edu/V135/N14/captions.html>

The Implications

- Section 504 and 508 are enforceable for private institutions of higher education
- Although the lawsuit is around free and open content in MOOCs, the next logical step is a lawsuit against a distance education provider
- Any institution that receives any kind of federal funds whatsoever is at additional risk for exposure
- If the NAD wins this suit, it is highly likely that similar suits will follow
- Standards cover all types of disabilities—not just hearing disabilities. The potential ramifications go far beyond providing captions.

Other Examples

Atlantic Cape Community College (2015)

- ACC is a recipient of federal financial assistance and subject to Section 504
- ACC must:
 - Hire an outside consultant to evaluate Disability Support Services
 - Revise disability policies
 - Provide live training for employees
 - Develop ADA student training
 - Complete a technology audit and corrective plan

<http://www.d.umn.edu/~lcarlson/atteam/lawsuits.html>

Other Examples

University of Montana (2012)

- Inaccessible class assignments and materials on the learning management system, Moodle.
- Inaccessible live chat and discussion board functions in the learning management system, Moodle.
- Inaccessible documents that are scanned images on webpages and websites.
- Inaccessible videos, and videos in Flash format, that are not captioned.
- Inaccessible library database materials.
- Inaccessible course registration through a website, Cyber Bear.
- Inaccessible classroom clickers.

<http://www.d.umn.edu/~lcarlson/atteam/lawsuits.html>

Other Examples

- Arizona State University sued by NFB and ACB for use of the Amazon Kindle (2009)
- Florida State University sued by NFB for inaccessible technology (2012)
- Mesa Community College (2012) sued by a blind student for “needlessly inaccessible” technology
- Miami University of Ohio sued by NFB for failure to make necessary modifications (2014)
- Multiple lawsuits in 2011 over Google Apps inaccessibility

<http://www.d.umn.edu/~lcarlson/atteam/lawsuits.html>



Standards and Applications

Standards: High Level Overview

- 1194.22 (a) A text equivalent for every non-text element shall be provided (e.g., via "alt", "longdesc", or in element content).
- 1194.22 (b) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.
- 1194.22 (c) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.
- 1194.22 (d) Documents shall be organized so they are readable without requiring an associated style sheet.
- 1194.22 (k) A text-only page, with equivalent information or functionality, shall be provided to make a web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.

<http://www.section508.gov/content/learn/standards/quick-reference-guide#1194.22>

Common Applications of the Standards

Audio content, such as a prerecorded podcast, built into a course

Quality Matters

Section 508

WCAG 2.0

Live audio content, such as a webinar

Quality Matters

Section 508 (New
revision)

WCAG 2.0

Common Applications of the Standards

Audio content, such as a prerecorded podcast, built into a course

Quality Matters	Section 508	WCAG 2.0
Text transcript	Text transcript	Text transcript

Live audio content, such as a webinar

Quality Matters	Section 508 (New revision)	WCAG 2.0
Not specifically addressed—not a design consideration	Does not apply	Not addressed—Not a web design consideration

Common Applications of the Standards

YouTube video with audio

Quality Matters

Section 508

WCAG 2.0

Common Applications of the Standards

YouTube video with audio

Quality Matters	Section 508	WCAG 2.0
Captioned if audio content corresponds with video content; otherwise transcript	1194.24(c) All training and informational video and multimedia productions which support the agency's mission...that contain speech or other audio information necessary for the comprehension of the content, shall be open or closed captioned	Caption AND audio description (explaining significant actions)

Common Applications of the Standards

A picture is placed in the text of a content page

Quality Matters

Section 508

WCAG 2.0

Common Applications of the Standards

A picture is placed in the text of a content page

Quality Matters	Section 508	WCAG 2.0
Visual information, including images, graphs, and tables, are described via an alt-tag, long description, caption, or audio description	Every image, applet, embedded media, plugin, etc. that conveys content has equivalent alternative text (alt, longdesc, or in the element context)	All non-text content that is presented to the user has a text alternative (with exceptions)

Common Applications of the Standards

A pdf of an article is posted in the course

Quality Matters

Section 508, New
Revision

WCAG 2.0

Common Applications of the Standards

A pdf of an article is posted in the course

Quality Matters	Section 508, New Revision	WCAG 2.0
PDFs that contain text are not merely image scans; any text contained in PDFs is selectable and searchable.	Checklist for compliance http://www.hhs.gov/web/section-508/making-files-accessible/checklist/pdf/index.html	Not addressed—not a web guideline

Common Applications of the Standards

A PowerPoint is posted in the course and relies heavily on graphics and Smart Art

Quality Matters

Section 508, New
Revision

WCAG 2.0

Common Applications of the Standards

A PowerPoint is posted in the course and relies heavily on graphics and Smart Art

Quality Matters	Section 508, New Revision	WCAG 2.0
Alt-tags for all objects, Tables are set up with headings for columns and rows, fonts are from style gallery, colors alone are not relied on to convey meaning	Just don't do it. http://www.hhs.gov/web/section-508/making-files-accessible/checklist/ppt/index.html	Not addressed—not a web guideline



Developing a Proactive Institution-Wide Plan

Developing a Proactive Institution-wide Plan

- Establish a compliance committee that encompasses all departments, including legal.
- Develop a statement of your institution's commitment to both accommodations and accessibility, and adhere to it.
 - An open commitment to providing an accessible website;
 - An outline of key guidelines and standards the website follows;
 - Any known exceptions to the intended level of web accessibility;
 - Contact information for reporting difficulties with the website.

<http://www.nomensa.com/blog/2009/writing-an-accessibility-statement>

Developing a Proactive Institution-wide Plan

- Conduct an accessibility audit.
 - Familiarize yourself with the tools (website checkers, screen readers).
 - Seek outside assistance.
- Involve student government (example: Alliance for Disability and Students at the University of Montana)
- Develop an employee training plan.
- Include accommodations and accessibility training in student orientation.
- Develop accessible course design policies and practices.

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