



## Legal Requirements for Digital Accessibility

### *What State and District Leaders Need to Know*

#### Why is digital accessibility important?

Technology tools have become deeply entwined in the ways that we learn, work, communicate, play, and shop. We encourage students to learn online with courses, videos, and other interactive materials and devices; we use school or university websites to communicate with students and parents; we use online portals for scheduling classes and teacher conferences or paying tuition bills. But when these resources are inaccessible to students, teachers, parents, or others with disabilities, they are digitally excluding large sections of your users and opening up your institution to complaints and legal challenges.

The Office of Civil Rights has spent considerable time working with institutions of higher education to address website accessibility issues, and is now beginning to intensify that work with [K-12 schools and districts](#). With more of our learning and interactions occurring online, digital accessibility is a major concern for educators and educational institutions. Now is the time to address website accessibility issues.

#### *What do I need to know about the legal framework for digital accessibility?*

Although the laws related to individuals with disabilities did not explicitly address accessibility issues, such as the Rehabilitation Act (1973), and the Americans with Disabilities Act (ADA; 1990, amended 2008), case law and guidance from the U.S. Department of Justice and the U.S. Department of Education indicate that websites and website content fall under the umbrella of existing nondiscrimination laws.

This interpretation of existing civil rights and disability legislation was solidified in two Statements of Interest filed by the U.S. Department of Justice (DOJ) in recent cases brought by the National Association for the Deaf against Harvard and MIT ([https://www.ada.gov/briefs/mit\\_soi.pdf](https://www.ada.gov/briefs/mit_soi.pdf); [https://www.ada.gov/briefs/harvard\\_soi.pdf](https://www.ada.gov/briefs/harvard_soi.pdf)). Both universities argued that captioning of videos was not required by existing law, and that in the absence of clear federal guidelines, web accessibility lawsuits should be delayed until revisions could be made. In the response to this argument, the DOJ rejected these claims, and reiterated that the ADA was explicitly written to keep pace with developing technology, and that website accessibility was mandatory even in the absence of updated and more concrete guidelines.

In the 2010 joint Dear Colleague Letter on e-book readers, guidance on emerging technologies similarly underscored the importance of compliance with disability laws stating, “It is

unacceptable for universities to use emerging technology without insisting that this technology be accessible to all students [emphasis added]" (U.S. Department of Justice & U.S. Department of Education, 2010, n.p.). In a follow-up FAQ document, the DOJ and ED clarified that this ruling applied to both K–12 and higher education and went beyond accessibility of e-book readers (<http://www2.ed.gov/about/offices/list/ocr/docs/dcl-ebook-faq-201105.pdf>).

Within this context, educators at all levels need to be familiar with and understand federal and state-level accessibility laws, including Sections 504 and 508 of the Rehabilitation Act; the Americans with Disabilities Act (ADA); and the Individuals with Disabilities Education Improvement Act (IDEIA). In addition, many states have their own accessibility laws and guidelines (sometimes referred to as “little 508s”) that may go further than existing federal law. Taken together, these laws ensure that individuals with disabilities have equal access to all programs, services, and activities, including web-based and digital communications.

Although there has been a delay in the release of the new digital accessibility guidelines for Section 508 of the Rehabilitation Act, it is clear that digital accessibility is mandatory. These revisions will require tighter focus and attention for schools, districts, universities, and state education agencies. Some institutions still adhere to the current Section 508 guidelines and the Web Content Accessibility Guidelines (WCAG) 1.0, but many institutions have begun to shift to WCAG 2.0 in anticipation of the U.S. adoption of the international standard.

## How can we get to compliance?

Your role as an education technology leader is critical for creating an environment within your institution where accessibility is a priority. Ensuring compliance with federal and state accessibility laws, and protecting equal access for people with disabilities is a systemwide (that is, school, district, institution) responsibility. Your commitment, vision, and leadership are essential. Accessibility considerations should be a regular part of planning and technology usage at all levels, not just considered when problems arise or when users request accommodations. Being proactive instead of reactive saves time and

### WCAG 1.0 vs WCAG 2.0

What are some of the key differences between the WCAG 1.0 and the WCAG 2.0?

- WCAG 2.0 applies to a wide variety of web technologies and is designed to apply to advances in technology.
- Clearer requirements in the WCAG 2.0 make testing (both automated and by people) and compliance more straightforward.
- WCAG 2.0 creates a single international standard for web content accessibility.
- WCAG 2.0 is “organized around four design principles of Web accessibility. Each principle has guidelines, and each guideline has testable success criteria at level A, AA, or AAA” (n.p.).<sup>1</sup>

Learn more at WC3:

<https://www.w3.org/WAI/WCAG20/from10/diff.php>.

<sup>1</sup> Henry, S. L., & Arch, A., eds. (2012). *How WCAG 2.0 differs from WCAG 1.0*. W3C. Retrieved from: <https://www.w3.org/WAI/WCAG20/from10/diff.php>

money and ensures that anyone using your website is able to perceive, understand, and navigate your content.

If your institution does not already have an accessibility policy clearly communicated on your website, and guidelines developed for all staff, developing and communicating one should be your first priority. Here are action steps your team can take to bring all your website content into compliance:

1. Research and understand federal and applicable state accessibility laws and guidelines.
2. Review accessibility policies at other schools, districts, and universities.
3. Use checklists and guides such as the WCAG 2.0 checklist to perform an accessibility audit of your website, instructional materials, and digital content to ensure that all of your materials are in compliance with federal laws.
4. Identify materials that are not in compliance and develop a plan for addressing accessibility issues.
5. Set goals and benchmarks for addressing compliance issues with timelines for success.
6. Work together to create state-, district-, school-, and institutionwide systems for addressing accessibility involving educators, community members, students, administrators, disability and accessibility organizations, content creators, and web developers in your planning.
7. Develop and communicate your institutionwide vision for accessibility and the importance of compliance with accessibility laws. If your school, district, or institution does not already clearly communicate an accessibility policy on your website, doing so should become a priority (see Resources section for examples from other institutions).
8. Continue to conduct regular accessibility audits of technology and solicit feedback from students and stakeholders.

## Resources on accessibility laws and guidelines

*Accessibility Standards, Specifications and Guidelines*

[http://aem.cast.org/creating/accessibility-standards-specifications-guidelines.html#.Vs3st\\_krLIU](http://aem.cast.org/creating/accessibility-standards-specifications-guidelines.html#.Vs3st_krLIU)

*At a Glance: Which Laws Do What*

<https://www.understood.org/en/school-learning/your-childs-rights/basics-about-childs-rights/at-a-glance-which-laws-do-what>

*The Big Difference: Disability Rights and Responsibilities in High School vs. College*

<https://www.concordia.edu/sitefiles/w3/successctr/the%20big%20difference.pdf>

*A Comparison of ADA, IDEA, and Section 504*

<https://dredf.org/advocacy/comparison.html>

*Frequently Asked Questions About the June 29, 2010, Dear Colleague Letter*  
<http://www2.ed.gov/about/offices/list/ocr/docs/dcl-ebook-faq-201105.pdf>

*Learn About Section 508 Requirements and Responsibilities*  
<https://www.section508.gov/content/learn>

*A New Look at Section 504 and the ADA in Special Education Cases*  
<http://apps.americanbar.org/litigation/committees/childrights/content/articles/summer2011-section-504-ada-idea.html>

*Sections 508 and 504: Closed Captioning and Web Accessibility Requirements*  
<http://info.3playmedia.com/wp-section-508.html>

*2017 Federal and State Accessibility Guidelines and Laws for Education*  
<https://cielo24.com/2016-accessibility-guidelines-res/>

*United States Access Board*  
<https://www.access-board.gov/>

## Resources for conducting accessibility audits

*Accessibility Testing Tools (Paciello Group)*  
<https://www.paciellogroup.com/resources/>

*How to Conduct a Basic Accessibility Audit on Your Site*  
<http://blogs.adobe.com/dreamweaver/2016/05/how-to-conduct-a-basic-accessibility-audit-on-your-site.html>

*How to Meet WCAG 2.0*  
<https://www.w3.org/WAI/WCAG20/quickref/>

*IT Accessibility Risk Statements and Evidence*  
<https://library.educause.edu/resources/2015/7/it-accessibility-risk-statements-and-evidence>

*10 Tips for Creating Accessible Course Content*  
<http://www.3playmedia.com/2015/10/21/10-tips-for-creating-accessible-course-content/>

*WCAG 2.0 Guidelines (PennState)*  
<http://accessibility.psu.edu/wcag2/>

*WebAIM's WCAG 2.0 Checklist*  
<http://webaim.org/standards/wcag/checklist>

*Web Accessibility Evaluation Tools List*  
<https://www.w3.org/WAI/ER/tools/>

## Examples from schools, universities, and education agencies

*Accessibility Statement (Communities in Schools of Washington)*  
<http://ciswa.org/accessibility-statement/>

*Accessible Educational Resources Portal (Seattle Public Schools)*  
<http://www.seattleschools.org/cms/One.aspx?portalId=627&pageId=8660017>

*Accessible Technology at the UW*  
<http://www.washington.edu/accessibility/>

*Policy AD69—Accessibility of Electronic and Information Technology*  
<http://guru.psu.edu/policies/AD69.html>

*Web Accessibility Statement (Cambridge Public Schools)*  
[http://www.cpsd.us/web\\_accessibility\\_statement](http://www.cpsd.us/web_accessibility_statement)

*Web and Technology Accessibility FAQ (Seattle Public Schools)*  
<https://www.seattleschools.org/cms/one.aspx?pagelId=7183920>

*Benefits of Digital Accessibility* is Part III of the four-part *Digital Accessibility Toolkit: What Education Leaders Need to Know*. Be sure to view the other three parts of the toolkit and its supplementary infographics, using the links below. See the complete Toolkit [here](#).

- **Part I: What Is Accessibility?**
- **Part II: Procuring Accessible Technology**
- **Part VI: Legal Requirements of Digital Accessibility**
- **Infographic: Getting Started with Accessibility**
- **Infographic: 5 Things to Know About Your Role in Ensuring Accessibility**

## About CoSN

CoSN is the premier voice and resource for K-12 education technology leaders nationwide. Serving more than 11 million students in America's school systems, CoSN provides education leaders with the tools and relationships to leverage technology and advance modern, engaging learning environments. Visit [cosn.org](http://cosn.org) to find out more about CoSN's [focus areas](#), [annual conference and events](#), [advocacy and policy](#), [membership](#), and the [CETL certification exam](#).

## About CTD

The Center on Technology and Disability (CTD) is a user-centered learning and technical assistance website designed to increase the capacity of families, school systems, technical assistance providers, SEA and LEA leaders, and other key stakeholders to understand, assess, acquire, and implement appropriate assistive and instructional technology strategies and tools. CTD is administered by FHI 360, American Institutes for Research, PACER Center, and Adirondack Accessibility. Learn more: [www.ctdinstitute.org](http://www.ctdinstitute.org).

## About AIR

American Institutes for Research, in partnership with FHI360 on CTD, provides technical assistance to state and district leaders to support their efforts to integrate assistive and instructional technology strategies and tools. Established in 1946, with headquarters in Washington, D.C., the American Institutes for Research (AIR) is a nonpartisan, not-for-profit organization that conducts behavioral and social science research and delivers technical assistance both domestically and internationally in the areas of health, education, and workforce productivity. For more information, visit [www.air.org](http://www.air.org).