

Legal Update: School Website Accessibility and Digital Communications Requirements

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To ensure compliance under Section 504 of the Rehabilitation Act (Section 504) and Title II of the Americans with Disabilities Act (Title II), both of which are enforced by the U.S. Department of Education (ED), Office for Civil Rights (OCR), schools must maintain websites accessible to individuals with disabilities. While the ED has not developed specific requirements governing websites for educational entities, OCR has issued guidance on effective communication and published resolution agreements with universities and school districts that serve as helpful guidelines for ensuring required website accessibility.

Section 504 prohibits recipients of federal financial assistance from discriminating against a qualified individual with a disability on the basis of that disability. 34 C.F.R. 104.4. Discrimination under Section 504 includes denying a person with a disability the opportunity to equally participate in or benefit from an aid, benefit, or service. Id.

Title II also prohibits discrimination against qualified individuals with disabilities, and applies to all state and local government entities regardless of whether they receive federal funds. 34 C.F.R. 104.4. Additionally, Title II regulations include specific communication requirements stating that public entities must take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others. 28 C.F.R. 35.160.

Though Section 504 and Title II differ in their requirements, generally, a violation of Section 504 will also result in a violation of Title II. However, OCR has indicated that it typically does not find discrimination under Section 504 related to a school's communications with individuals with disabilities where the school complies with Title II's effective communication regulations.¹ The requirement under Title II that communication with individuals with disabilities must be as effective as communication with individuals without disabilities (along with the general nondiscrimination requirements of Section 504 and Title II) has been interpreted by OCR to include communication via a school's website.¹ To help ensure compliance, schools should adopt a web accessibility policy and provide notice of the policy to the school community.

OCR has noted that the use of standards such as Section 508 of the Rehabilitation Act (Section 508) or the World Wide Web Consortium's Web Content Accessibility Guidelines can be helpful in assisting schools in developing an accessibility policy and gauging the accessibility of their existing websites.² Recent investigations demonstrate that OCR utilizes Section 508 as a guideline for determining website accessibility.³ However, the use of such standards does not guarantee compliance with Section 504 or Title II. Upon

adoption of a website accessibility policy, schools should also provide training on the policy to staff responsible for electronic communication content development.**4**

Common website accessibility issues highlighted in recent OCR investigations offer additional insight regarding areas that schools must consider to ensure compliance. Examples of some common website accessibility issues include:**5**

- Lack of alternative text on images- Assistive technologies (such as screen reading software and refreshable Braille displays) utilized by people who are blind, have low vision, or have other disabilities that affect their ability to read a computer display cannot translate images into speech or Braille. Therefore, images on websites must be accompanied by a text equivalent.
- Documents posted in an inaccessible format- PDF documents are often not accessible by people who need to use screen readers, text enlargement programs, and/or different color and font settings to read computer displays. Documents must contain embedded text either by converting from an electronic source or applying optical character resolution so that screen readers are able to copy or extract the document's text.
- Lack of captions on videos- All videos should be captioned. Captions should provide a verbatim, textual equivalent of the auditory information and should be synchronized so that a person reading captions can watch the speakers on the video and associate the speech with relevant body language. Schools should be wary of using the default YouTube captions, as they may be incomplete or inaccurate.
- Lack of audio descriptions in videos- If significant information that is presented visually within a video is not discernable from the dialogue or audio track, audio descriptions (verbal descriptions of the actions and images in the video) must be included in order to allow individuals who are blind or have low vision to access the information.
- Lack of access to control panels on videos- When a video's control panel (play, stop, volume, etc.) can only be seen when the user's mouse hovers over the video, keyboard users may not be able to see or interact with the controls. Control panels must be accessible by keyboard users and must be properly identified to allow those using assistive technology to operate the controls.
- Improperly structured data tables- In order for data tables to be appropriately accessible to students using screen readers, the table must have the proper markup designation in HyperText Markup Language (HTML). This allows users of screen readers to hear the column and row headers spoken to them as they navigate through each cell of a data table.
- Improperly formatted and labelled form fields- Forms should allow people utilizing assistive technology to access the information, field elements, and functionality required for completion and submission of the form. For example, if the first box of a form asks for a student's first name, the words "first name" should be associated with the input box; otherwise, someone using assistive technology would not know what information should be typed in the box.
- Improper contrast between background and foreground colors- Color and font settings on each web page must be able to be manipulated so that users with low vision can make pages readable for themselves.

Barley Snyder's [Education Law Group](#) performs trainings and conducts audits related to accessibility issues. If you have additional questions regarding website accessibility, or if we can provide further assistance as you review your existing policies and procedures, please do not hesitate to contact us.

*This legal update was co-authored by Brittany Mosi. Brittany is a rising third year law student currently attending Georgetown University School of Law and working as a summer associate at Barley Snyder.

1 See U.S. Dept. of Educ., Frequently Asked Questions About the June 29, 2010, Dear Colleague Letter (2011).

2 See U.S. Dept. of Educ., Michigan Dept. of Educ. Resolution Letter at 6 (2015); U.S. Dept. of Educ., University of Cincinnati Resolution Letter at 6 (2014).

3 See, e.g., University of Cincinnati Resolution Letter at 8.

4 See, e.g., University of Cincinnati Resolution Letter at 12.

5 See generally, Michigan Dept. of Educ. Resolution Letter; University of Cincinnati Resolution Letter; U.S. Dept. of Educ., Youngstown State University Resolution Letter (2014).