



Building accessible sites

How accessible is your district's website?

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School districts frequently use the Internet to communicate with parents and other community members. Online parent portals, e-newsletters and school websites are supplementing and, in some cases, replacing the traditional backpack folder as a source of information for the district.

While there are benefits to using these methods of communication, districts should be aware of their legal obligations to ensure their websites and Web content are accessible to all community members, including those with disabilities who may require assistive devices and specialized software to access the Internet. This article shares the current legal framework in the area of website accessibility requirements and makes recommendations for districts looking to be proactive in this area.

Legal framework

Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) prohibit discrimination on the basis of disability in programs or activities receiving federal financial assistance and by certain public entities.

Both the U.S. Department of Education Office for Civil Rights (OCR) and U.S. Department of Justice (DOJ) have jurisdiction over accessibility complaints. Although the federal statutes are silent on the issue of website accessibility, both agencies have taken the position that the general nondiscrimination requirements imposed by Section 504 and Title II include an obligation to make sure individuals with disabilities are afforded an equal opportunity to participate

in a school district's online programs, services and activities.

In spite of these positions, there is no legally binding technical standard that defines what constitutes an "accessible" website. More than five years ago, DOJ announced its intent to issue regulations to address the accessibility of public websites. In April, DOJ finally issued a Supplemental Advance Notice of Proposed Rulemaking (SANPRM). The SANPRM poses more than 120 questions for public comment, including soliciting feedback on the appropriate technical standards, how much time covered entities should be given to comply with any new standards and whether the standards should also apply to apps on mobile devices. Comments on the SANPRM must be submitted by Aug. 8.

For many districts, implementing accessibility features is not difficult and will seldom change the layout or appearance of the website.

Even without final regulations in place, DOJ and OCR are moving forward with website accessibility complaints filed against districts and other public entities. Recently, OCR identified "compliance concerns" with websites operated by a number of school districts nationwide, including districts in South Carolina, Texas, Virginia and Massachusetts.

Similar concerns have been identified with websites operated by the Michigan Department of Education, Youngstown State University and University of Cincinnati. Seattle Public Schools recently entered into a 3.5-year consent decree after the district was sued for failing to provide equal access to information on its website to a blind parent in the district. Implementing the decree is estimated to cost between \$665,400 and \$815,400, not including attorneys' fees or damages.

OCR has identified the following as some of the potential deficiencies district websites may have: lack of alternative text on images; documents not posted in an accessible format; lack of captions on videos and inability to operate video controls using assistive technology; improperly structured data tables; improperly formatted and labeled form fields; and improper contrast between background and foreground colors.

DOJ also has been actively advocating its position in the absence of final regulations. In 2015, DOJ filed statements of interest in lawsuits against Harvard University and the Massachusetts Institute of Technology about the alleged inaccessibility of videos on the schools' websites. In the statements, DOJ expressed its expectation that public entities make websites fully accessible, even in the absence of a regulation that would provide guidance as to what DOJ considers a legally compliant "accessible website."

Providing equal access

To determine if a program, service or activity delivered online or through a website provides "equal access to

individuals with disabilities,” OCR considers if individuals with disabilities have the same ease of use, completeness of information, functionality and timeliness of response.

This is consistent with the standard set forth in a June 29, 2010, Dear Colleague letter jointly issued by OCR and DOJ. It stated that requiring the use of technology in a classroom when the technology is inaccessible to an entire population of individuals with disabilities (for example, individuals with visual disabilities) is discrimination prohibited by Title II and Section 504 *unless* those individuals are provided accommodations or modifications that permit them to receive all educational benefits provided by the technology in an equally effective and equally integrated manner. Specifically, the letter explained that districts must ensure that students with disabilities can access the educational opportunity and benefit with “substantially equivalent ease of use” as students without disabilities.

However, OCR and DOJ both acknowledge that a school district with an inaccessible website could still satisfy its legal obligations by providing the same information and services through other accessible means. In a 2003 DOJ technical assistance document, *Accessibility of State and Local Government Websites to People with Disabilities*, DOJ states that “an agency with an inaccessible website may also meet its legal obligations by providing an alternative accessible way for citizens to use the programs or services.”

This language seems to suggest that a district could refer individuals to a telephone line through which they could obtain information that is otherwise available on its website or provide written content as an alternative to a website video. The federal agencies are clear, however, that the district’s alternative would have to provide an equal degree of access in terms of hours of operations and range of information, options and services available. Specifically, the same

services must be offered 24/7 and without cost if offered that way to those without impairments.

There are a number of resources available to districts wishing to be proactive in making their websites accessible. The first is the Section 508 standards, which federal agencies must follow for new Web pages. The standards contain technical criteria specific to various types of technologies and address access for people with physical, sensory or cognitive disabilities. The U.S. Access Board maintains information at www.access-board.gov and has a useful guide for Web developers at <http://links.ohio.schoolboards.org/25641>.

A more comprehensive resource is the Web Content Accessibility Guidelines 2.0 (WCAG), which DOJ suggests will be the new standard in its SANPRM. These technical standards created by the World Wide Web Consortium help developers and site managers make websites more accessible for everyone, including those with disabilities. WCAG has 12 guidelines organized under four principles:

- information and user interface must be presentable in ways users can *perceive*;
- user interface components and navigation must be *operable*;
- the information and operation of user interface must be *understandable*;
- content must be *robust*.

Please see “A detailed look at WCAG 2.0 principles” (right) for additional information on WCAG guidelines.

District personnel should start discussing website accessibility, even in the absence of DOJ regulations on the subject. For many districts, implementing accessibility features is not difficult and will seldom change the layout or appearance of the website. For a voluntary action plan, see DOJ’s technical assistance guidance document online at: www.ada.gov/websites2.htm. For additional information, please call the OSBA Division of Legal Services. ■

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A detailed look at WCAG 2.0 principles

Web Content Accessibility Guidelines 2.0 (WCAG) are based on four principles of accessible online content:

Perceivable

- Provide text alternatives for any nontext content so it can be changed into other forms people need, such as large print, braille, speech, symbols or simpler language.
- Provide alternatives for time-based media.
- Create content that can be presented in different ways (for example, simpler layout) without losing information or structure.
- Make it easier for users to see and hear content, including separating foreground from background.

Operable

- Make all functionality available from a keyboard.
- Provide users enough time to read and use content.
- Do not design content in a way that is known to cause seizures.
- Provide ways to help users navigate, find content and determine where they are.

Understandable

- Make text content readable and understandable.
- Make Web pages appear and operate in predictable ways.
- Help users avoid and correct mistakes.

Robust

- Maximize compatibility with current and future user agents, including assistive technologies.