MAINTAINING ACCESSIBILITY TO INFORMATION TECHNOLOGY

A Guide for California Community Colleges

March 2017
CCC**TECH**CENTER.ORG

ACCESSIBILITY CENTER

CALIFORNIA COMMUNITY COLLEGES

INTRODUCTION

Access to instructional materials and information and communication technology (ICT) is integral to fulfilling the missions of the California Community Colleges, higher education institutions designed to serve all members of our communities. Accessibility standards and institutional policies and procedures work in conjunction to promote a campus culture supporting access for individuals with disabilities.

Many students, faculty, staff, and community members have a disability. According to data collected by the California Community Colleges Chancellor's Office, in the 2015-2016 academic year over 121,000 students with disabilities were identified through the Disabled Students Programs & Services (DSPS), and many more are likely unidentified. Examples of different disabilities include: blind and low-vision, mobility impairment,

> *Students with disabilities face a variety of accessibility challenges making it difficult to interact with the college and complete their work, which places them at a higher risk for matriculation and completion failure.*

chronic health conditions, and cognitive or psychological disorders. Students with disabilities face a variety of accessibility challenges making it difficult to interact with the college and complete their work, which places them at a higher risk for matriculation and completion failure.[1] Accessibility standards ensure students, faculty, staff, and community members from all backgrounds can access college services.

INSTITUTIONAL IMPACT

The past decade has seen increased emphasis on higher education institutions and technology access for students with disabilities. Colleges and universities nationally, including Harvard, Massachusetts Institute of Technology, Princeton, and University of California at Berkeley, have been subject to lawsuits and compliance reviews resulting from access barriers to web and information technology resources for students with disabilities.[2] Last year, a lawsuit was filed against a California community college alleging discrimination due to the lack of accessibility in the college's online instructional platform and related course materials. The district settled the case for $40,000 dollars, the plaintiff's lawyer fees, and agreed to adhere to the following criteria[3]:

- Complete an accessibility audit of all electronic and information technology (EIT)[4] resources within six months

- Modify procurement processes to make sure all EIT purchases meet WCAG 2.0, AA, and Section 508 standards

- Verify via a third-party accessibility auditor that all EIT is accessible before executing contracts

- Prohibit faculty from using instructional EIT resources required as part of a course that do not meet WCAG 2.0 AA, or have not been reviewed by an accessibility auditor

- Require all faculty to prepare list of required instructional materials at least three weeks prior to first day of class

In the absence of clear accessibility policies and processes, colleges rely on ad hoc accommodation models when deploying inaccessible technology, creating a separate-and-still-unequal ICT[5] landscape. ICT, instead of increasing equal access for students with disabilities, has created additional barriers beyond those encountered in the traditional classroom environment or with print-based materials. This white paper provides an overview of current ICT accessibility standards and best practices in personnel, policies, and processes to support accessibility.[6]

INSTITUTIONAL IMPACT CONTINUED

In 2010, the US Department of Justice (DOJ) and the US Department of Education Office for Civil Rights (OCR) jointly published a "Dear Colleague Letter" to all university and college presidents reminding them of their non-discrimination obligations specifically as they relate to technology access. The Dear Colleague Letter informed institutions that it is a violation of both Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act of 1990 (ADA) when students with disabilities are not afforded the same opportunity to participate in a manner as that afforded to others. While the focus of the Dear Colleague Letter was on the use of inaccessible electronic book readers in the classroom environment, both the DOJ and OCR made clear that technology access for students with disabilities must be addressed in stating, "It is unacceptable for universities to use emerging technology without insisting that this technology be accessible to all students."[7] Since that publication, numerous colleges and universities

have undergone compliance reviews and received lawsuits pertaining to the inaccessibility of websites, electronic content, and ICT for students with disabilities.[8] **The challenge now facing colleges is straightforward: How does an institution meet its Section 504 and ADA non-discrimination obligations for individuals with disabilities when developing, using, and purchasing ICT products?** To meet ICT accessibility standards, colleges should determine who is responsible for technology accessibility issues, manage the implementation of accessibility standards, and understand the liabilities surrounding technology access.

This report explains liabilities surrounding ICT accessibility, where ICT liabilities are commonly found on California Community Colleges (CCC), how college leaders can better serve their communities while mitigating their ICT liability, and how the CCC Technology Center's Accessibility Center can help.

DEFINING ICT ACCESSIBILITY

What is Meant By Accessible?

Title II of the ADA requires that public entities, including colleges and universities, not exclude or deny individuals with disabilities the opportunity or participation in the full and equal enjoyment of the services, programs, benefits, or activities of a public entity.[9] Such benefits are inclusive of ICT systems and products and these should be accessible to the greater campus community. The term accessible has been defined as, "a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use." While there is recognition that "accessible" does not always equate to "identical ease of use,"[10] colleges are nevertheless expected to ensure an equal opportunity to those services and benefits derived from the use of ICT systems and products.

What are ICT Accessibility Standards?

The two most commonly referenced accessibility standards include the Web Content Accessibility Guidelines 2.0, Level AA (WCAG 2.0, AA), and the US Section 508 Standards. WCAG 2.0, AA, is a standard for ICT accessibility that meets the needs of individuals, organizations, and governments internationally.[11] **As of 2017, colleges and districts are recommended to use the WCAG 2.0, Level AA, standard as**

the minimum technical requirement for the institution when developing or purchasing ICT systems and products.

WCAG 2.0 is a principle-based set of standards for ensuring Internet-based content is accessible to individuals with disabilities. **WCAG 2.0 is organized around four principles, that content is: perceivable, operable, understandable, and robust.** These principles establish the framework from which various guidelines, advisory techniques, and success criteria offer developers and content authors guidance by which to create accessible content. This principle-based approach allows greater flexibility for designers and developers to support access for individuals with disabilities rather than requiring conformance with a single, technical solution. The principle-based model allows WCAG 2.0 to maintain relevance as technology changes and even be applicable to ICT products broadly rather than just Internet-based content.

The WCAG 2.0 guidelines include specific testable success criteria grouped into three levels of conformance, that of A (lowest level), AA, and AAA (highest level). The AA level represents accessibility success criteria that are essential, can be reasonably achieved, and are appropriate to all types of websites and content. The WCAG 2.0, AA level also forms the basis for the refreshed US Section 508 Standards.

ADDRESSING ICT LIABILITIES ON YOUR CAMPUS

ICT accessibility on most college campuses is associated with its personnel, policies, and processes.

Personnel

Faculty, staff, and administrators unfamiliar with accessibility requirements can unknowingly create access barriers for disabled students and open the college or district to litigation. For example, instructors not considering the accessibility of course materials prior to the start of classes may select content or resources not usable by a student with a disability and which cannot be converted into an alternate format in a timely manner. This has the potential for limiting a student's participation and jeopardizing the student's academic progress. Colleges should appoint an accessibility coordinator to work with faculty, staff, and administrators to avoid unintentionally creating an environment where potential access issues evolve into significant access barriers.

Policies

Policies set expectations and provide a framework by which institutions can make informed decisions. Board policies that reiterate a college's non-discrimination obligations, including access to ICT, lay the foundation from which administrative procedures and processes may be developed and demonstrate a college's commitment to accessibility.[12]

Having documented accessibility standards and processes can inform institutional staff as to which standards are relevant when developing college websites and web applications, authoring electronic documents, or purchasing online course materials and library resources. Colleges without the appropriate board policies and administrative procedures that identify minimum accessibility standards are at greater risk for being out of compliance and creating access barriers to campus ICT solutions for students with disabilities.

Such accessibility issues are not limited to student-centered interactions. A college or district may be in violation of non-discrimination obligations under Title I of the ADA when applicants attempt to apply for employment through the website only to find it inaccessible.[13] Additionally, online ticketing and reservation systems for college sporting events, shows, and performances may pose barriers for individuals with disabilities attempting such transactions. The application of ICT accessibility standards at a campus should be construed broadly to include ICT products and systems beyond the student purview and extending to faculty, staff, and the public as well.

Processes

Colleges without procurement and grievance processes specific to ICT accessibility potentially deny access to disabled students and open the college to litigation. For example, students, staff, and community members who encounter website or other ICT accessibility issues must have the opportunity to provide feedback to the college regarding these barriers. Colleges are expected to follow a formal, documented process to address any reported accessibility issues and communicate how the college will resolve such issues. A grievance process should include an expected response time period and the appropriate person to contact if additional questions emerge.

Another institutional process requiring attention involves procurement. Colleges need to include a step during procurement to determine the extent by which web applications, software, and other ICT resources meet accessibility standards. Colleges create significant risk when not evaluating ICT products for accessibility during purchasing, and the lack of access in such products, particularly campus-wide enterprise solutions, can create major access barriers for students with disabilities and limit opportunities for participation. Developing an internal process to review a product's accessibility may include multiple steps, such as informing vendors of the institution's minimum ICT accessibility standards, obtaining accessibility documentation of the product from third-party evaluation vendors, or including accessibility requirements in contract or scope-of-work language. A procurement process that incorporates accessibility checks can aid colleges in selecting ICT products that not only meet institutional requirements, but also support access for a diverse campus community.

BEST PRACTICES

Over the past six years, lawsuits, settlement agreements, and compliance reviews have resulted in clear and consistent outcomes highlighting the steps higher education institutions should adopt in creating an accessible ICT environment. The following table outlines the best practices for personnel, policies, and processes for increasing ICT accessibility and mitigating liability:

Personnel	Policies	Processes
Identify an ICT Accessibility Coordinator	Affirm the district or college's commitment to non-discrimination and accessibility through board policy	Specify a grievance process and make this information available through the district and college websites
Provide accessibility training to faculty, staff, and administrators	Create an ICT accessibility policy establishing that ICT resources are expected to meet WCAG 2.0, AA standards	Create a process for procurement to review the accessibility of ICT products and to inform vendors they are expected to meet WCAG 2.0, AA standards
Have a third party or consultant review policies, procedures, and status of ICT resources for disability services	Require all online instructional materials and district and college websites to meet WCAG 2.0, AA standards	Perform a periodic ICT audit using both automated and manual accessibility evaluation tools

ACCESSIBILITY CENTER RESOURCES

The Accessibility Center provides the following best practices for free to help ensure that your college serves your community's needs while mitigating your college's liability:

- board policies
- grievance processes
- procurement processes
- guidelines for meeting WCAG 2.0, AA standards[14]

The Accessibility Center also provides the following free or low-cost services:

- training for faculty, staff and administrators
- third-party audits of policies, procedures and products
- compliance consultation

Conclusion

The landscape for those who lead and manage community colleges has shifted dramatically with recent legal outcomes and the role of technology in higher education. The burden is now on colleges and their employees to demonstrate that their ICT systems support access for individuals with disabilities. College leaders who are negligent in instituting the appropriate ICT accessibility personnel, policies, and processes not only open their college and district to lawsuits, but limit the opportunities of students with disabilities seeking educational growth and proficiency. Beyond mitigating liability, investing in ICT accessibility is foundational for community college leaders to accomplish their mission of meeting the diverse needs of their students, staff, and community.

The Accessibility Center is a resource to the California Community Colleges to help meet their accessibility requirements.

Please visit cccaccessibility.org to request an accessibility review and find more information.

NOTES

1. Brand, B., Valent, A., Danielson, L. "Improving College and Career Readiness for Students with Disabilities." College and Career Readiness & Success Center, American Institutes for Research. 2013.

2. "Higher Education Lawsuits." California State University Chico Accessible Technology Initiative, 2016, www.csuchico.edu/ati/higher_edu_lawsuits/index.shtml.

3. "Settlement Agreement and Release between Siskiyou Joint Community College District and Student." TRE Legal Practice, 2 Sept. 2015, www.trelegal.com/wp-content/uploads/2016/10/Public-Fully-Executed-Redacted-COS-Settlement-Agreement.pdf.

4. EIT is a subset of information and communication technology (ICT).

5. Information and communication technology (ICT) encompasses EIT as well as telecommunication products and equipment. ICT products includes computers, information kiosks, office and copy machines, websites, electronic documents, software, and telecommunication equipment. See 82 FR 5790, available at: www.federalregister.gov/d/2017-00395/p-10).

6. "Accessible Instructional Materials in Higher Education (AIM HE) Act." National Federation of the Blind, 2017, www.nfb.org/aimheafactsheet.

7. "Joint 'Dear Colleague' Letter: Electronic Book Reader." Civic Rights Division, U.S. Department of Justice and Office for Civil Rights, U.S. Department of Education, 29 June 2010, www2.ed.gov/about/offices/list/ocr/letters/colleague-20100629.html.

8. "Resolution Agreements and Lawsuits." University of Washington, 2017, www.washington.edu/accessibility/requirements/accessibility-cases-and-settlement-agreements/.

9. Americans with Disabilities Act, Title II U.S.C. § 35.130 (2016).

10. "Resolution Agreement South Carolina Technical College System OCR Compliance Review No. 11-11-6002" U.S. Department of Education, 28 Feb. 2013, www2.ed.gov/about/offices/list/ocr/docs/investigations/11116002-b.pdf.

11. "Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities." Civil Rights Division, Department of Justice, 2016, www.ada.gov/regs2016/sanprm.html

12. "IT Accessibility Risk Statements and Evidence." Educause, 2015, www.library.educause.edu/resources/2015/7/it-accessibility-risk-statements-and-evidence

13. "Justice Department Reaches Settlements with Four Cities Across the Country to Remove Disability-Related Questions from Job Applications and Ensure Web Accessibility." Office of Public Affairs, U.S. Department of Justice, 3 Feb. 2013, www.justice.gov/opa/pr/justice-department-reaches-settlements-four-cities-across-country-remove-disability-related

14. Eggert, Eric and Shadi Abou-Zahra. "How to Meet WCAG 2.0" Version 2.1.1. W3C Web Accessibility Initiative, 16 Sep. 2016, www.w3.org/WAI/WCAG20/quickref/