Beyond Accommodation: Proactive Inclusivity in Online and Hybrid Courses

Online & Hybrid Learning Pedagogy: Toward Defining Best Practices in Legal Education
University of Denver Sturm College of Law
September 26-28, 2019

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Accommodation

- We are familiar with "accommodations" as adaptations made for specific individuals when a product or service is not accessible, for example:
  - captions on a video (when a specific student who is hearing impaired requests them)
  - remediation of documents to make them accessible to students who are vision impaired and use screen readers (or who have dyslexia and other learning disabilities that make reading easier when they can see printed words and listen to them spoken at the same time)
  - Problem: do many students **not** disclose their disability?
    - Apparently yes, up to 80% in some cases

Proactivity in development, use of accessible software, websites, videos, documents, and other IT reduces the need for accommodations and will be important moving forward.

Accommodation vs Inclusive environment

Laws, Regs, and Guidelines

- Section 504 of the Rehabilitation Act of 1973
  - Section 508
- Titles II and III of the Americans with Disabilities Act of 1990 (ADA), as amended
- Web Content Accessibility Guidelines AA (WCAG 2.0 AA)
  - WCAG 2.1 is the new goal
- *Possible* proposed rule for public accommodations websites

Higher-Ed Complaints and Lawsuits

Here is a handy litigation timeline from California State University San Marcos (CSUSM): https://www.csusm.edu/accessibility/ati/lawsuits/index.html

The University of Minnesota complied a list of higher-ed-related accessibility complaints and lawsuits: http://www.d.umn.edu/~lcarlson/atteam/reports/litigation/lawsuits.html

In November of 2018, Jason Camacho, a blind NY resident, initiated lawsuits in the SDNY against 50 colleges over website accessibility.

Most lawsuits thus far have resulted in settlements/consent agreements, and here is a list of agreements that reference **WCAG**: http://www.d.umn.edu/~lcarlson/wcagwg/settlements/

Here are common themes of these lawsuits:

- Failure to caption educational videos
- Use of inaccessible websites, apps, and LMS
- Use of technologies and materials that are not accessible to screen readers
- Use of inaccessible devices in the classroom such as clickers and electronic readers

Global Context

- The [European Union (EU) Directive on the Accessibility of Websites and Mobile Applications](#) requires EU member states to make sure their websites and mobile apps meet common accessibility standards. As of September 23, 2018.

- The Directive uses the four principles of WCAG 2.0, ("Perceivable, Operable, Understandable, and Robust"), citing WCAG 2.0 Level AA as the expected standard.

- Also, the EU adopted the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in November 2009.

  - The UNCRPD - The Key Principles

    - Respect for inherent dignity, individual autonomy and independence
    - Non-discrimination
    - Full and effective participation and inclusion in society
    - Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
    - Equality of opportunity
    - Accessibility

Section 504

- **"No otherwise qualified individual with a disability in the United States […] shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or any program or activity conducted by any Executive agency or by the United States Postal Service."**

- This law applies to any federally funded program, or any entity, including organizations, and public or private universities, that receives federal funding.

Section 508

- Section 508 requires electronic communications and information technologies, such as websites, email, or web documents, to be accessible
  - For video content, closed captions are a specific requirement mentioned in Section 508
- Recently, Section 508 went through a WCAG 2.0 Level A and Level AA refresh to update the law's language
  - Section 508 now requires WCAG 2.0 Level A and Level AA conformance for websites associated with federal programs
  - But many US States and organizations have laws (known as "mini" or "little" 508s) that reference section 508
    - E.g., Alabama, Arizona, California, Connecticut, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Missouri, New York, Oklahoma, Virginia

The ADA

Title II

- Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services. Title II extends the prohibition on discrimination established by section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, to all activities of state and local governments regardless of whether these entities receive Federal financial assistance.

Title III

- Title III of ADA requires places of public accommodation (commercial entities) to be accessible. Under Title III, no individual may be discriminated against on the basis of disability with regards to the full and equal enjoyment of the goods, services, facilities, or accommodations of any "place of public accommodation" by any person who owns, leases (or leases to), or operates a place of public accommodation.

While the ADA does not specifically mention technical requirements for websites to be accessible, it does call for "auxiliary aids" in communication. Examples of auxiliary aids are closed captions (hearing impaired) and audio description (vision impaired) on videos. Several lawsuits brought against private companies for inaccessible websites, web services, or digital communications, have created a precedent that the ADA applies to the online activities, including education.

Accessibility and IT

- The definition of "accessible" in IT used by the Office of Civil Rights and the U.S. Department of Education:

- *"Accessible" means 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. The person with a disability must be able to obtain the information as fully, equally, and independently as a person without a disability.*

  - See, OCR Compliance Review No. 11-11-6002 re South Carolina Technical College System available at https://www2.ed.gov/about/offices/list/ocr/docs/investigations/11116002-b.html

WCAG 2.0 AA

- The World Wide Web Consortium (W3C) published the original set of Web Content Accessibility Guidelines (WCAG 1.0) in 1998. An updated version, WCAG 2.0, was published in 2008, and we are working with this version in many contexts, although WCAG 2.1 was officially recommended in June of 2018.

  - *The federal government adopted WCAG 2.0 AA* in 2017 for its agency websites, so this was seen as an indication that DOJ would move forward on its projection that a proposed rule for public accommodations websites would happen in 2018 (probably based on 2.0 AA) but this process was put on hold under the Trump Administration, leaving the regulatory environment for websites and online learning uncertain.*

- 12 Guidelines divided into four general principles:

  - **Perceivable** – Information and user interface components must be presentable to users in ways users can perceive

  - **Operable** – User interface components and navigation must be operable

  - **Understandable** – Information and the operation of user interface must be understandable

  - **Robust** – Content must be robust enough that it can be interpreted reliably by a wide variety of users/user agents, including assistive technologies

*The Guidelines go from A to AA to AAA, with a thorough checklist here: https://www.wuhcag.com/wcag-checklist/

WCAG 2.1

- WCAG 2.1 was published as a Final Recommendation on June 5, 2018.
  - W3C Advisory Committee Members were invited to send formal review comments to the W3C Team until May 22, 2018.
  - There are 17 new guidelines
  - Here is a link to the working/editor's draft: https://w3c.github.io/wcag21/guidelines/ and the April 24 proposal: https://www.w3.org/TR/WCAG21/
- **"The primary focus for WCAG 2.1 is accessibility requirements for mobile accessibility, people with low vision, and people with cognitive and learning disabilities…WCAG 2.1 is designed to be 'backwards compatible' so websites that conform to WCAG 2.1 will also conform to WCAG 2.0 — which means that a website that meets WCAG 2.1 will meet the requirements of policies that reference WCAG 2.0."**
  - WCAG 3.0: The Silver Task Force and the W3C Silver Community Group are performing the preliminary work for a successor to WCAG. (W3C says it is currently unclear if 2.2 is needed, will depend on progress of Accessibility Guidelines 3.0 and the outcome of WCAG 2.1)

    - Updates: https://www.w3.org/community/silver/

Inclusivity: Big Picture Course Design Issues

- **Really consider inclusive, learner-centric environment**
  - accessibility beyond reactive accommodation
- Design websites and LMS content to operate with the keyboard as opposed to mouse-only
- Make links descriptive
- Provide alternative text for all images
- Structure all content in a module with ordered titles
- Use simple, high contrast fonts
- Caption all videos and provide transcriptions for audio
- Avoid PDFs if possible, otherwise make sure they are accessible
- Appoint someone on your team to focus on WCAG 2.1

Pedagogical Choices

- Consider Universal Design for Learning (UDL) - http://udlguidelines.cast.org/
  - Concept that you create from the beginning something that works for everybody
- Present content in multiple ways
- Make information and assignments relevant to law students with a wide variety of interests and backgrounds
- Provide options for student communication and collaboration that are accessible to individuals with a variety of abilities
- Make instructions and expectations clear
- Offer outlines and other scaffolding tools to help students learn
- Provide opportunities for practice – quizzes, asking students to recap in their own words
- Provide ample feedback and offer second chances

Resources

- Don't forget [WCAG 2.1](#)
- UDL: Universal Design for Learning at www.udlcenter.org, http://udlguidelines.cast.org/
- Blackboard Ally: http://www.blackboard.com/accessibility/blackboard-ally.html
- Canvas/Instructure Accessibility Checker (within courses)
- Moodle: https://docs.moodle.org/dev/Accessibility
- Universal Design Online Inspection Tool (UDOIT): https://cdl.ucf.edu/teach/accessibility/udoit/
- Quality Matters: rubric with accessibility and usability standards
- Texas DLA Digital Accessibility Certification Program (31 hours)
- Association on Higher Education and Disability (AHEAD): www.ahead.org

Yours?

Thank You!

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