U.S. Department of Justice
Civil Rights Division

U.S. Department of Education
Office for Civil Rights

May 19, 2023

Dear Colleague:

We write to make you aware of the Justice Department and Department of Education's ongoing efforts to address barriers that prevent people with disabilities from participating in online services, programs, and activities that colleges, universities, and other postsecondary institutions make available to students and the public.

Online Accessibility Challenges

Many colleges, universities, and other postsecondary institutions increasingly rely on their websites and third-party online platforms to provide services, programs, and activities to members of the public. This includes courses on learning platforms like edX, Coursera, and Kadenze, as well as podcasts and videos featuring lectures, conferences, sporting events, admissions information, graduation ceremonies, and other events on social media and third-party platforms like YouTube, Spotify, and Apple Podcasts. This online content is a service, program, or activity of the college, university, or other postsecondary institution, but much of it is often inaccessible to individuals with disabilities.

Many individuals with disabilities, including those who have vision or hearing disabilities, need auxiliary aids and services to access and interact with online content. For example, in order to access online content, people who have vision disabilities or reading disabilities may use screen readers, which are devices that speak the text that appears on a screen. People who are deaf or hard of hearing may use captioning to access information conveyed in a video with sound. And people whose disabilities affect their ability to grasp and use a mouse or touchpad may use voice recognition software to control their computers and other devices with verbal commands, or they may use keyboard commands to navigate online content.

Legal Framework

Two Federal laws, the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504), require colleges, universities, and other postsecondary institutions to provide equal opportunities to people with disabilities in all their operations, including equal opportunities to participate in and benefit from online services, programs, and activities.

Title II of the ADA prohibits public colleges, universities, and other postsecondary institutions from denying qualified individuals with disabilities the opportunity to participate in or benefit from their aids, benefits, or services, including online programming and services, or providing an unequal opportunity to benefit.[1] Title III of the ADA prohibits private undergraduate, postgraduate, and other private places of education from, among other things, denying individuals with disabilities the opportunity to participate in or benefit from their goods, services, privileges, or advantages, or providing an unequal opportunity to benefit.[2] Public and private colleges, universities, and other postsecondary institutions must take appropriate steps to ensure

[1] 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1)(i) and (2).
[2] 42 U.S.C. § 12182(b)(1)(A)(i) and (ii); 28 C.F.R. § 36.202(a) and (b).

that communications with individuals with disabilities are as effective as communications with others, including providing appropriate auxiliary aids and services.[3] Auxiliary aids and services include qualified interpreters, open and closed captioning, and accessible electronic and information technology, among other methods.[4] Public and private colleges, universities, and other postsecondary institutions must also make reasonable modifications in policies, practices, and procedures where necessary to avoid discriminating on the basis of disability, and where necessary to afford their goods and services to individuals with disabilities.[5]

Likewise, Section 504 provides, in part, that no otherwise qualified individuals with a disability shall, solely by reason of their 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.[6] Most public and private colleges, universities, and other postsecondary institutions are recipients of financial assistance from the Department of Education, and all of their operations, including all their online programs and activities, are covered by Section 504.[7] These recipients must likewise provide appropriate auxiliary aids to ensure students with disabilities are not denied the benefits of the recipients' programs or activities.[8]

The ADA and Section 504 apply not only to the services, programs, and activities that postsecondary institutions offer to students, but also to those that they offer to the public. When colleges, universities, and other postsecondary institutions offer their online programming to the general public, *all* members of the general public are qualified to avail themselves of those online programs and services.[9]

Enforcement Actions

The Departments of Justice and Education have used their enforcement authority to address inaccessible online services, programs, and activities provided by colleges, universities, and other postsecondary institutions.[10] For example, on December 2, 2022, a Federal district court approved a consent decree between the Justice Department and the Regents of the University of California that requires the University of California at Berkeley (UC Berkeley) to make public online content on its websites and other online platforms accessible to people with disabilities. This includes BerkeleyX courses, university websites, and videos and podcasts on its YouTube, Apple Podcasts, and other third-party platforms. UC Berkeley will also revise its policies, train relevant personnel, designate a web accessibility coordinator, conduct accessibility testing of its online content, and hire an independent auditor to evaluate the accessibility of its content. More information about this case, including the Justice Department's letter of findings, complaint, and

[3] 42 U.S.C. § 12132; 28 C.F.R. § 35.160; 42 U.S.C. § 12182(b)(2)(A)(iii); 28 C.F.R. § 36.303.
[4] 28 C.F.R. § 35.104; 28 C.F.R. § 36.303(b).
[5] 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(7); 42 U.S.C. § 12182(b)(2)(A)(ii); 28 C.F.R. § 36.302.
[6] 29 U.S.C. § 794(a).
[7] 29 U.S.C. § 794(b); 34 C.F.R. § 104.3(k).
[8] 34 C.F.R. § 104.44(d).
[9] *See* 42 U.S.C. § 12131(2); 34 C.F.R. § 104.3(*l*)(4).
[10] The Departments of Justice and Education share responsibility for enforcing these laws. The Departments of Justice and Education both have enforcement authority under Title II of the ADA. The Department of Justice is responsible for enforcement and implementation of Title III of the ADA. The Department of Education enforces Section 504 with respect to public and private colleges, universities, and other postsecondary institutions that receive financial assistance from the Department of Education.

consent decree, can be found at U.S. v. Regents of the University of California | CRT | Department of Justice.

The Department of Education's Office for Civil Rights (OCR) has also used its enforcement authority to address the inaccessibility of the online services, programs, and activities of colleges, universities, and other postsecondary institutions. Resolution agreements that OCR has secured following investigations provide clear steps to remedy digital barriers to access and ensure recipients have policies and trainings in place to proactively ensure their online programs are accessible in compliance with Title II and Section 504 going forward. OCR has resolved and monitored more than 1,000 cases in recent years related to digital access that were triggered by complaints of discrimination by members of the public. These agreements address the accessibility of public-facing websites, learning management systems, password-protected student-facing content, and mass email blasts of colleges, universities, and other postsecondary institutions.

In May 2022, OCR proactively launched 100 compliance reviews regarding digital accessibility. The reviews look at digital accessibility in public- and student-facing websites and educational platforms maintained by public and private colleges, universities, and other postsecondary institutions, as well as State departments of education, school districts, charter schools, and public libraries. In less than a year, OCR has resolved more than 50 of these compliance reviews. More information about the resolved complaints and compliance reviews can be found at OCR's Recent Resolution Search website.

Guidance and Regulations

The Justice Department has also published resources and information regarding web accessibility to fulfill the congressional charge to provide technical assistance to the public. In March 2022, the Justice Department issued guidance involving web access for individuals with disabilities. The guidance describes how State and local governments and businesses can make sure that their websites are accessible to people with disabilities as required by the ADA. It identifies common website accessibility barriers, educates readers on when the ADA requires web content to be accessible, and explains how to achieve accessibility. It also provides a list of resources for readers. This publication may be found at Guidance on Web Accessibility and the ADA | ADA.gov. Further, the Justice Department has announced that it intends to publish a Notice of Proposed Rulemaking (NPRM) to amend its Title II ADA regulation to provide technical standards to assist public entities in complying with their existing obligations to make their websites accessible to individuals with disabilities.[11]

OCR has also engaged in substantial technical assistance to bring online services, programs, and activities of colleges, universities, and other postsecondary institutions into compliance with the law. In March 2022, OCR released a 20-part video series covering topics such as how people with disabilities use technology, applicable Federal laws, and how to identify and remediate different types of technological barriers that can interfere with the ability of parents and students with disabilities to participate in modern American education. The intent of the series is to provide a basic introduction to many different digital accessibility concepts, such as fundamental

[11] Office of Info. & Regul. Aff., Office of Mgmt. & Budget, Exec. Office of the President, *Fall 2022 Unified Agenda of Regulatory and Deregulatory Actions*, *RIN 1190-AA79* (Dec. 20, 2022), *available at* RIN 1190-AA79 (reginfo.gov) (last visited May 10, 2023).

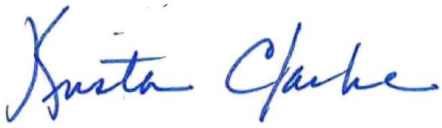
manual testing techniques, use of color, logical reading order, and meaningful video captions. Further, the Department of Education has announced that it intends to publish an NPRM to amend its Section 504 regulation to strengthen and protect rights for students with disabilities.[12]

Where to Find Help

The Justice Department operates a toll-free ADA Information Line where specialists are available to answer questions regarding Federal laws protecting the rights of individuals with disabilities. The ADA Information Line can be reached by calling 800-514-0301 (1-833-610-1264 (TTY)). For more information on the ADA, please also visit ADA.gov. For more information about the Justice Department's Civil Rights Division, Disability Rights Section, please visit justice.gov/crt/disability-rights-section. Colleges, universities, students with disabilities, and other stakeholders can also contact the Department of Education's OCR for technical assistance by emailing OCRWebAccessTA@ed.gov. For more information about OCR, please visit ed.gov/ocr.

Online accessibility for people with disabilities cannot be an afterthought. The Justice Department and Department of Education will use the ADA and Section 504 as tools to ensure that members of the disability community are able to fully participate in every education program. We appreciate your attention to this essential educational and civil rights issue and look forward to working with you to ensure that our nation's colleges and universities are fully accessible to individuals with disabilities.

Sincerely,



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[12] U.S. Department of Education Announces Intent to Strengthen and Protect Rights for Students with Disabilities by Amending Regulations Implementing Section 504 | U.S. Department of Education (RIN: 1870-AA19).