

Insights, News & Events

CLICK, CLICK, SUED: ARE YOUR SCHOOL'S WEBSITES AND APPS ADA COMPLIANT?

Insights
Mar 27, 2024

With just the click of a button, your school's website or mobile app could become the source of a disability discrimination claim. Digital accessibility lawsuits are on the rise – and education is one of the most targeted sectors. While your physical facilities may be top of mind when it comes to the Americans with Disabilities Act (ADA), websites and mobile apps also must comply. Here are four steps your institution can take to help avoid an ADA lawsuit and four steps you can take if you receive a digital accessibility claim.

The ADA and Private Schools

Title III of the ADA, which prohibits disability discrimination, applies to private entities that are open to the public for business, including:

- nursery, elementary, secondary, undergraduate, and post-graduate private schools; and
- other places where school-sponsored educational activities could occur (such as recreational facilities).

You should note that certain religious schools are exempt.

Does the ADA Require Website Accessibility?

The ADA does not specifically address website accessibility but generally entitles people with disabilities to the full and equal enjoyment of a school's goods, services, facilities, privileges, advantages, and accommodations. Over time,

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due to ever-increasing technology use, the interpretation of Title III has expanded to cover websites and mobile apps. As a result, individuals who rely on assistive technology may have the right to access information provided on websites and apps.

Could Your School Be at Risk of Violating the ADA?

Increasingly, plaintiffs are sending demand letters or filing lawsuits against educational institutions, alleging that their websites (including mobile versions) and mobile apps violate the ADA (or state law, if applicable) because they are not equally accessible to individuals with visual- and/or hearing-based disabilities. Although there is no clear or binding standard as to what it means to have an “accessible” website, many federal courts have accepted the [Web Content Accessibility Guidelines \(WCAG\)](#) as the applicable standard for ADA website accessibility compliance.

Courts continue to deal with plaintiffs who go from place to place looking for – and suing for – alleged violations of the ADA. For example, [the Supreme Court dismissed a case in December 2023](#) involving a legal “tester” who “surfed by” business to business and sued over alleged ADA violations. But the Court’s lack of decision in *Acheson Hotels v. Laufer* means that virtually all businesses and educational institutions with a physical location (or possibly even just a website) are still vulnerable to claims from so-called accessibility testers who often file hundreds of ADA lawsuits.

4 Steps to Help Your School’s Websites and Apps Comply

To avoid becoming a target for digital accessibility claims, you should proactively review your websites, apps, and all public-facing digital content to check your platforms for compliance with the ADA and WCAG. Here are four steps you can take to get started:

1. Make sure your websites and apps have sufficient color contrast so that individuals with limited vision or color blindness can read text.
2. If your websites and apps don’t have it already, add captions to videos so that individuals with hearing disabilities can understand information included in the video.

3. Check your website for any links that are expired or outdated. Replace those “dead” links with updated hyperlinks or remove them entirely.
4. Frequently test whether your website and apps are compatible with different screen sizes.

4 Steps to Take If You Receive an ADA Complaint

If you are unfortunately on the receiving end of a digital accessibility demand letter or lawsuit, you should consider taking these critical next steps:

1. Contact counsel immediately.
2. Test the website or app to determine if it is ADA and WCAG compliant.
3. Immediately fix any compliance issues on your website or app.
4. Determine whether any agreement with a web page developer provides any protection or relief against such lawsuits.

Conclusion

We will continue to monitor developments related to this issue, so be sure to subscribe to [Fisher Phillips' Insight System](#) to gather the most up-to-date information. If you have further questions on how to comply with the ADA's digital accessibility requirements, please consult your Fisher Phillips attorney, the author of this Insight, or any attorney on [our Education Team](#).