Recent Developments in Web/IT Accessibility Law

Terrill Thompson
Access Technology Services, UW-IT
tft@uw.edu
Accessibility in Civil Rights Law

• 1973 – Section 504 of the Rehabilitation Act
  – programs and services or recipients of federal $ must be accessible

• 1990 – Americans with Disabilities Act
  – Prohibits disability discrimination
  – Title I – Employment
  – Title II – Public Entities
  – Title III – Public Accommodations
Section 508

• 1998 – Section 508 of the Rehabilitation Act – requires federal agencies to develop, procure, & use accessible IT

• 2001 – Section 508 IT accessibility standards developed (based in part on W3C Web Content Accessibility Guidelines (WCAG) 1.0, Priority 1 checkpoints)
WCAG 2.0: Three Levels of Conformance

- Level A (26 success criteria). Examples:
  - Alt text on images
  - Structural markup (e.g., headings)
  - Captions on video, transcripts on audio
- Level AA (13 success criteria). Examples:
  - High foreground/background contrast for text
  - Visible indication of keyboard focus
  - Audio descriptions on video
- Level AAA (23 success criteria). Examples:
  - Specific text formatting requirements
  - “Understandable” language
  - Sign language on video
Washington State ISB
Policy No. 1000-G1 (May 2005)

• Requires accessibility of IT procured, developed, maintained and used by state agencies

• Adopts specific sections of the Section 508 standards, and WCAG 2.0 for web accessibility.

• Explicitly states in the *Scope* section that "educational institutions" are covered by the policy.

• More info at: [http://uw.edu/accessibility/policies.html](http://uw.edu/accessibility/policies.html)
Proposed New ADA Rules

- July 2010 - U.S. Department of Justice proposed new rules that clarify ADA requirements related to web accessibility
- Jan 2011 – Public comment period ended
- RFC included 19 questions, such as:
  - Question 1. Should the Department adopt the WCAG 2.0’s “Level AA Success Criteria” as its standard for Web site accessibility for entities covered by titles II and III of the ADA?
Updates to Sec 508 Standards

- March 2012 – End of public comment period for second draft of updated standards
- Draft harmonized with WCAG 2.0 Level AA
National Federation of the Blind (NFB)

- June 2009 – Sued Arizona State University (and filed OCR and DOJ complaints against 5 others) over use of Amazon Kindle (settled in Jan 2010)
- November 2010 – Filed OCR complaint against Penn State University
- March 2011 – Filed DOJ complaint against Northwestern and NYU over use of Google Apps
- June 2011 – Sued Florida State University over use of eGrade (& other issues)
- May 2012 – Sued Maricopa Community College District over inaccessible “college and third-party Web sites and software applications used for coursework and student services”, and inaccessible clickers used in classroom
NFB vs Penn State

- Inaccessible library website
- Inaccessible departmental websites
- Inaccessible LMS (Angel)
- Classroom technologies that are inaccessible to blind faculty members
- Inaccessible financial services via contract with PNC Bank
“The disparity between the quality of education offered non-disabled students and disabled students is, as a general matter, increasing, simply because the amount of inaccessible technology on the campus is proliferating… It sounds like a bad problem for the students. But it’s actually a worse one for the colleges and universities, because this is going to have to change.”

Dan Goldstein, NFB Legal Counsel, at EDUCAUSE, October 20, 2011
“Each year that a school delays identifying where its accessibility issues are and developing a plan of action, and each year that a university doesn’t change its procurement policy and continues to acquire new inaccessible technology means that when you do finally decide to do something, it will cost you a great deal more… My goal frankly is to get it to the top of your to-do list, or as near to the top as I can get it.”

Dan Goldstein, NFB Legal Counsel, at EDUCAUSE, October 20, 2011
“In terms of what to do... ending denial is the first step and saying ‘You know, we’re inaccessible’; and then taking stock of where you are inaccessible; and then coming up with an action plan... It’s important that the plan be public, with deadlines.”

Dan Goldstein, NFB Legal Counsel, at EDUCAUSE, October 20, 2011
“The one thing you can go back and tell the general counsel is: Dan Goldstein said he’s not going to file any suit if a school has a comprehensive action plan up that says how they’re going to become accessible.”

Dan Goldstein, NFB Legal Counsel, at EDUCAUSE, October 20, 2011