

KD Employment Law Alert: EEOC Tackles Website Access for the Disabled

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The accessibility of a company's website for the disabled is not a new issue. However, the EEOC has apparently doubled down on its efforts to force employers to comply with the Americans with Disabilities Act, as amended, with regard to its publicly accessed websites. The proof is in the overwhelming number of federal court lawsuits crowding dockets across the country.

The Employment Law Department of KD has developed special capabilities in this area, particularly with regard to cost-effective resolution. The following is a checklist developed by the EEOC some years ago but is still a good start to determining whether your website complies with the ADA:

1. Does the top of each page with navigation links have a "skip navigation" link? (This feature directs screen readers to bypass the row of navigation links and start at the webpage content, thus enabling people who use screen readers to avoid having to listen to all the links each time they move to a new page.)
2. Do all links have a text description that can be read by a screen reader (not just a graphic or "click here")?
3. Do all of the photographs, maps, graphics and other images on the website currently have HTML tags (such as an "alt" tag or a long description tag) with text equivalents of the material being visually conveyed?
4. Are all of the documents posted on your website available in HTML or another text-based format (for example, rich text format (RTF) or word processing format), even if you are also providing them in another format, such as Portable Document Format (PDF)?
5. If your website has online forms, do HTML tags describe all of the controls (including all text fields, check boxes, drop-down lists, and buttons) that people can use in order to complete and submit the forms?
6. If your website has online forms, does the default setting in drop-down lists describe the information being requested instead of displaying a response option (e.g., "your age" instead of "18 - 21")?
7. If a webpage has data charts or tables, is HTML used to associate all data cells with column and row identifiers?
8. Do all video files on your website have audio descriptions of what is being displayed to provide access to visually conveyed information for people who are blind or have low vision?
9. Do all video files on your website have written captions of spoken communication synchronized with the action to provide access to people who are deaf or hard of hearing?
10. Do all audio files on your website have written captions of spoken communication synchronized with the action to provide access to people who are deaf or hard of hearing?
11. Have all webpages been designed so they can be viewed using visitors' web browser and operating system settings for color and font?
12. Do you have a written policy on website accessibility?
13. Is the website accessibility policy posted on your website in a place where it can be easily located?
14. Have procedures been developed to ensure that content is not added to your website until it has been made accessible?
15. Does the website manager check the HTML of all new webpages to confirm accessibility before the pages are posted?
16. When documents are added to your website in PDF format, are text-based versions of the documents (e.g., HTML, RTF, or word processing format) added at the same time as the PDF versions?

17. Have in-house staff and contractors received information about the website accessibility policy and procedures to ensure website accessibility?
18. Have in-house and contractor staff received appropriate training on how to ensure the accessibility of your website?
19. Have in-house and contractor staff who create web content or post it on your website received copies of the Department of Justice's technical assistance document "Accessibility of State and Local Government Websites to People with Disabilities"?
20. If your website contains inaccessible content, is a specific written plan including timeframes in place now to make all of your existing web content accessible?
21. Have you posted on your website a plan to improve website accessibility and invited suggestions for improvements?
22. Does your website home page include easily locatable information, including a telephone number and email address, for use in reporting website accessibility problems and requesting accessible services and information?
23. Do you have procedures in place to assure a quick response to website visitors with disabilities who are having difficulty accessing information or services available via the website?
24. Have you asked disability groups representing people with a wide variety of disabilities to provide feedback on the accessibility of your website? (Note: Feedback from people who use a variety of assistive technologies is helpful in ensuring website accessibility.)
25. Have you tested your website using one of the products available on the Internet to test website accessibility? (Note: Products available for testing website accessibility include no-cost and low-cost options. These products may not identify all accessibility issues and may flag issues that are not accessibility problems. However, they are, nonetheless, a helpful tool in improving website accessibility.)
26. Are alternative ways of accessing web-based information, programs, activities, and services available for people with disabilities who cannot use computers?

ACTIONS:

If the answer to any of the above questions is "No," there may be accessibility problems with your website. Here are some steps to take to ensure that your website – and the programs and services offered on it – are accessible to people with disabilities.

- Establish a policy that your webpages will be accessible and create a process for implementation.
- Check the HTML of all new webpages. Make sure that accessible elements are used, including "alt" tags, long descriptions, and captions, as needed.
- Ensure that your webpages are designed in a manner that allows them to be displayed using a visitor's own settings for color and fonts.
- If images are used, including photos, graphics, scanned images, or image maps, make sure to include text equivalents for them, using "alt" tags and/or long descriptions for each. Ensure that the text equivalents convey the meaningful information presented visually by the image.
- If you use online forms and tables, make those elements accessible.
- Ensure that videos appearing on your website include appropriately synchronized audio description and captions.
- When posting new documents on the website, always provide them in HTML or another text-based format (even if you are also providing them in another format, such as PDF). If documents are provided in both formats, provide both formats at the same time so people with disabilities have the same degree of access as others.
- Develop a plan for making your existing web content accessible, including specific steps and timeframes. Describe your plan on an accessible webpage that can be easily located from your home page. Encourage input on accessibility improvements, including which pages should be given high priority for change. Let citizens know about the standards or guidelines that are being used to provide accessibility. Make accessibility modifications to the more popular webpages on your website a priority.
- Ensure that in-house staff and contractors responsible for webpages and webpage content development are properly trained on your web accessibility policy and procedures.

- Provide a way for visitors to request accessible information or services and provide feedback about accessibility problems by posting a telephone number and email address on your home page. Establish procedures to assure a quick response to people with disabilities who use this contact information to access web-based information or services.
- Periodically enlist people with a variety of disabilities to test your webpages for accessibility and ease of use; use this information to increase your website accessibility.
- Consider using one of the no-cost or low-cost resources available on the Internet to test the accessibility of your website. (Please note, however, that these products may not identify all accessibility problems on your website.)
- Ensure that alternative means are available for people with disabilities who are unable to use computers to access information, programs, and services that are normally provided on your website.

KD's Employment Law attorneys can answer any questions you may have regarding this new initiative by the EEOC.