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RISKAlert

April 2016

ADA and Website Accessibility



The Americans with Disabilities Act (ADA) was passed by Congress in 1990. As you may know, the ADA prohibits discrimination based on disability. Although most people are aware of the ADA's impact in the employment setting, it also prohibits disability-based discrimination in state and local government, public accommodations, commercial facilities, transportation, and telecommunications. The ADA was enacted well before educational institutions and public and private sector entities used websites to transact business. It is safe to say that the issue of website accessibility was not contemplated in the statute.

It is well settled that Title II of the ADA requires that state and local government websites be accessible to all persons with disabilities. This applies to schools funded by state and federal dollars. Less settled and heavily litigated is the issue of whether or not commercial websites need to be accessible as "place of public accommodation" under Title III. This area of the law is developing and guidance from the Department of Justice is not expected until 2018.

Recently colleges and universities have become targets for website accessibility lawsuits.

Various education institutions have reported receiving lengthy settlement demand letters from lawyers alleging the institution's internet-based services are inaccessible to their clients, in violation of the ADA and Section 504 of the Rehabilitation Act of 1973. Among the demands are the hiring of an approved consultant to make the website compliant with Web Content Accessibility Guidelines 2.0, compliance audits for the next several years and attorney's fees, all of which can be quite costly. The educational institution is left with the choice of entering settlement negotiations on these terms or facing a lawsuit.

Now is a good time to check with your technology leadership to see if your website complies with current requirements concerning accessibility. If your website is being maintained by an outside vendor, that firm should also be involved in the discussion.

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