Accessibility

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CHAPTER 3.

ACCESSIBILITY

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Equitable access, which includes access for people with disabilities, is included in the first principle of the ethical codes of both the American Association of Law Libraries and the American Library Association. Accessibility in law libraries that are open to the public is an especially keen concern because it implicates access to justice and government information, both of which are key to a successful democracy. This chapter will introduce concepts that help us think productively about accessibility and explore accessibility issues in both physical and digital spaces, considering a few issues unique to law libraries.

> ## Key Concepts
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> - Law librarians need to consider many different types of disabilities when planning for both space and research materials.
> - It is critical to gather basic knowledge of the legal accessibility requirements and how to go about meeting them.
> - *Universal design* is a paradigm for planning and designing architecture, services, and information resources that are usable for everyone without special accommodations.

FRAMING ACCESSIBILITY: DISABILITY TO USABILITY

Talking about disabilities is not easy. It focuses on differences instead of commonalities, and those differences are often used to exclude people rather than include them. Champions

of disability rights have worked tirelessly to spread the message that we are all people; first, we all have varying abilities, and many disabilities are largely invisible but nonetheless important.

Laws and standards addressing disabilities are often about removing existing barriers to access. However, those who think deeply about access and abilities point to a larger paradigm known as universal, or sometimes inclusive, design.[i] Originally rooted in architecture, the essential idea of universal design is that the built environment and many of the products we use can be designed from the outset to enable use by, and even empower, people of all ages, sizes, and physical capabilities.[ii] Universal design works to avoid accommodations that alter experiences and separate people with certain abilities from others. The idea is that when spaces and items are designed with the broadest range of people in mind, the results are better for everyone and can open up new uses. Classic examples of universal design successes include curb cuts, lever (as opposed to knob) door handles, automatic sliding doors, multi-height drinking fountains, zero-depth-entry pools, digital or verbal thermometers, touchless faucets, and task lighting. Universal design shifts the focus from disability to usability, from differences to commonalities.

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Types of limitations

One result of the accessibility movement and interest in universal design is a broader and better understanding of people's limitations, many of which are invisible. Law librarians working to achieve accessibility need to consider the many different disabilities that people may present.

Motor disabilities can affect gross motor skills, fine motor skills, or both. People with gross motor disabilities may be unable to or have challenges with walking, climbing stairs, balancing, standing up or sitting down, lifting, or controlling their head and limbs, all of which can make using library materials—either print or electronic—difficult. A person with

fine motor disabilities may be able to get to the library and sit down but have limited ability to use a computer keyboard and mouse, turn pages of a book, or write down notes.

Visual impairments include blindness and varying degrees of low vision, different types of color blindness, and photosensitivity. Visual impairments can affect the use of both print and electronic materials. They also need to be taken into account when designing signage for the library.

Hearing impairments range from partial hearing loss to total deafness, and not surprisingly, can affect speaking abilities. Sometimes, language barriers are included alongside hearing impairments because many of the accommodations—text and translation—are similar.

Learning disabilities such as dyslexia, dysgraphia, and auditory or visual processing disorders are considerations that will be most relevant to law librarians who teach in law schools. That said, all law librarians can benefit from knowing about learning disabilities because those students with learning disabilities become lawyers who use firm and court libraries and will appreciate a well-informed librarian.

Law librarians in libraries open to the public also have to work with patrons who have intellectual, emotional, or developmental impairments or who may simply be upset, frustrated, and overwhelmed by the complexity of legal materials and legal language. Fortunately, many of the steps we take to prepare for those with motor, vision, hearing, and learning disabilities can make legal research easier for everyone—visible, easy-to-read signage, navigable spaces, clear instructions in a variety of formats, and websites that meet accessibility standards. This incidental benefit is an example of the power of universal design.

LEGAL CONTEXT

Several federal laws work in tandem to eliminate discrimination and create equity for people with disabilities. The states also have relevant laws, some of which may be more rigorous than the federal laws, but state laws are beyond the scope of this chapter.

Rehabilitation Act of 1973

The Rehabilitation Act of 1973 was the first major federal law to protect people with disabilities from discrimination in employment and the provision of services. The law targeted federal executive agencies[iii] as well as any entity or program receiving federal funding.[iv] The former category includes agency libraries with significant legal collections such as those at the Department of Justice, Department of Agriculture, and the Department of the Treasury, as well as many others. The latter category includes virtually all colleges and universities, and thus law school libraries, by way of student financial aid and research grants.

Over time, the Rehabilitation Act was amended to require federal agencies to provide office technologies that would assist their employees with disabilities.[v] This responsibility has continued to expand, via further amendments, to include accessibility standards for all agency websites and electronic information so that members of the public with disabilities have equitable access to government. These standards are known as "Section 508" standards, named for the Rehabilitation Act section covering accessibility and technology.

Americans with Disabilities Act of 1990, as amended in 2008

The Americans with Disabilities Act (ADA) was modeled on the Rehabilitation Act in several ways. Still, it targeted discrimination by state and local governments ("public entities"), public and nonsectarian private K-12 schools, and "places of public accommodation," i.e., businesses, stores, restaurants, and hotels. It also emphasized physical spaces and the built environment, while the original Rehabilitation Act focused more on employment and educational discrimination. The ADA gave rise to widespread use of curb cuts, automatic doors, ramps, accessible drinking fountains and toilets, and buzzers at crosswalks.

In the years following the enactment of the ADA, several Supreme Court decisions narrowed the definition of "disability" considerably, in effect allowing discrimination to occur if someone's disability was able to be mitigated by corrective technologies. For example, if someone had poor vision, but it was correctible to 20/20, it was not discriminatory for an airline to refuse to hire them since, with correction, they didn't have a disability.[vi] The 2008 amendments to the ADA dialed back the Supreme Court's narrow reading of the original law, making it clear that Congress intends a broad definition of disability, including a wide list of life activities and functions with which impairments can interfere.[vii]

Other Legal Contexts

Additional statutes such as the 21st Century Communication and Video Accessibility Act and amendments to section 508 of the Rehabilitation Act, as well as recent regulations and case law interpreting the Rehabilitation Act and the ADA, have focused on accessibility in the electronic environment—on the web, in digital documents, work training videos, and online education courses.[viii] Closed captioning is one significant requirement, but the laws also require adaptations such as websites that are navigable and usable with screen reading software. It is not hard to see why these are important considerations in all law libraries.

PHYSICAL ACCESSIBILITY

Physical accessibility requirements differ depending on a building's age. Starting in 1992, buildings such as offices and schools have had to be designed with accessibility built-in:

designated parking, entry ramps, wide paths of travel, appropriately sized seating and service counters, usable bathrooms, elevators, and automatic doors, to name just a few.[ix] If the building was built before 1992, accessibility requirements must be met when alterations such as remodels and renovations are done, but how the requirements apply depends on the project's scope, feasibility, and cost. Only spaces and elements being altered need to meet requirements, and then only if doing so is physically feasible and proportionate to the project's costs as a whole. However, if a new addition is added onto an older building, the addition must meet the current requirements for new construction.[x]

What do the physical accessibility standards mean for different kinds of law libraries? Of the three basic types of law libraries (court/government, academic, and firm), the first two will have essentially the same requirements because they have spaces that must serve non-employees, whether those be students, attorneys, or members of the public. Generally speaking, spaces for non-employees must meet higher standards than spaces where only employee work is done. Thus, academic and government law libraries must look to the regular standards that apply to new constructions or alterations for their patron areas.[xi]
Law firm libraries are in a different position because, although law firms are commercial facilities, the library is an employee workspace rather than an area serving non-employees. Employee workspaces need only meet requirements for ingress, egress, and travel paths when the space is 1,000 sq. ft. or more, plus have wiring for visible fire alarms where audible alarms exist. [xii] In many law firms, libraries are almost entirely digital now, further alleviating physical accessibility concerns about bookshelf heights and aisle widths.

DIGITAL ACCESSIBILITY

Although many legal research resources are now digital reduces some concerns about physical accessibility, the need for digital accessibility is imperative. The digital information revolution was originally hailed as a game-changer for people with disabilities. Because digital information is composed solely of 1s and 0s, the same information can be made available in different formats suitable to different abilities. As text, it can be displayed large or small, in any typeface and color, and in any alphabet. Alternatively, it can be vocalized by a digital voice, read fast or slow, and it can be displayed on a Braille reader. Some of the promises of digital information have been realized, but it has not come as easily as people hoped; enormous accessibility gaps remain. It takes knowledge, planning, and careful work to ensure access that even approaches equitable. In law librarianship, the number of materials and the complexity of legal research databases create particular challenges for accessibility, and law librarians may have to take extra steps to help patrons with certain disabilities.

Technologies for Digital Accessibility

Several key technologies help with digital accessibility. One is familiar to everyone—closed captioning.[xiii] Closed captioning provides the text of spoken dialogue as well as descriptive text for background or other noises such as crying, laughter, whistling, music, and sound effects.[xiv] Beginning in the 1970s, closed captioning opened up television for people with hearing impairments. Over the decades, it has become apparent that closed captioning is helpful in unanticipated ways—in busy public spaces, for people who are not fluent in the language being spoken, even in karaoke—and is a powerful example of the universality of good design.

Closed captions play a role in today's law libraries because they are required by law for job training videos and online education. Law librarians have been recording lectures for law students and making screencast videos of research techniques for attorneys and judicial clerks for years now, and captioning these videos is vitally important. Many, if not most, video platforms now offer auto-captioning plus the ability to edit a video's captions or upload caption files. The auto-captioning quality of different video platforms varies widely. The biggest problem with auto-captioning is accuracy, especially in areas with specialized vocabularies such as legal research.[xv] Auto captions are better than no captions, but the best practice is, of course, to edit auto-captions for accuracy.

Screen reading software is an essential assistive technology for people with visual impairments, and law librarians need to understand some of what these screen readers can and cannot do. Screen readers are good at reading text. They are not good at non-text items such as images, buttons, and icons unless those items have a text equivalent added in their coding. Screen readers have no means of recognizing or drawing attention to bolded, highlighted, or otherwise visually marked items to draw the attention of a sighted reader. Screen readers also follow the order established in the coding of the webpage/document. If there is no coding defining an order or hierarchy, screen readers will start at the beginning and read straight through to the end without any awareness of the importance.

Web Accessibility

Library websites are, of course, a major access point for library users, and accessibility for all users should be a core element of their design and implementation. Website development in law libraries can be thorny because the library may be part of a larger organization—a law school, a firm, a court system—that controls the website. Whether a law librarian is creating the library's website themselves or communicating the library's website needs to a developer elsewhere in the organization, it is helpful to understand web accessibility standards. In

addition, many of the standards apply beyond websites to any material made available electronically, such as videos, documents, spreadsheets, and images.

Web accessibility guidelines were developed ad hoc in the early 1990s, but in 1999, the first version of the Web Content Accessibility Guidelines (WCAG 1.0) was published and adopted as a recommendation by the World Wide Web Consortium (W3C), the primary organization dedicated to developing international standards for the web. WCAG 2.0 was adopted by the W3C in 2008. Ten years later, WCAG 2.1 was issued to provide enhanced standards specifically addressing accessibility on mobile devices and cognitive impairments, learning disabilities, and low vision.

The WCAG standards are built around four principles—interfaces and content must be (1) perceivable via multiple senses; (2) operable through a variety of actions; (3) understandable; and (4) robust enough to function well across a variety of platforms, assistive technologies, and technological advances[xvi]—and the criteria built around these principles allow for varying levels of achievement from baseline (level A) through superior (level AAA). Although these four principles do not specifically reference universal design, they certainly echo its thesis that when we design for everyone rather than just the typically-abled, we end up with products that are more useable and more beneficial to all.

In the U.S., the federal government's "Section 508" standards for web accessibility are also common. As mentioned above, Section 508 is the portion of the Rehabilitation Act that requires federal agencies to, among other things, make their websites and electronic information accessible. Early on, Section 508 standards were not designed to be flexible and did not age well, and, not surprisingly, updates moved at a snail-like pace. Finally, in 2017, the agencies responsible for the Section 508 standards issued a new rule revamping the standards so that meeting certain levels of the WCAG 2.0 success criteria now results in Section 508 compliance.

Further exploration of web accessibility standards, particularly the how-tos, is outside this chapter's scope, but there are many resources for further learning. The W3C's Web Accessibility Initiative website has a wealth of information and the WCAG 2.0 and 2.1 standards themselves.[xvii] Another excellent resource is WebAIM. WebAIM is a nonprofit organization working on accessibility issues. It offers its own explanations of the WCAG standards and helpful tools like a color contrast checker, checklists for Word and PowerPoint documents, and simulations of screen readers, low vision, and other non-typical experiences.[xviii] It also offers a website accessibility evaluation tool.[xix]

Legal Research & Law Practice Technology

Thanks to the immensity and complexity of the law itself, the legal system, our governmental

structure, and legal publishing, legal research is challenging enough for those whose senses and bodies operate in typical ways. For people whose senses and bodies function atypically, the barriers are numerous and, in some instances, very high.

> ### *CONCEPT IN ACTION: INCLUSION IN TEACHING*
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> Mitch struggled with legal research because he relies on a screen reader. There was so much information, even on the starting page, that he was getting lost. He would run a search (and he hated Boolean because all the punctuation and syntax have to be just right) and flounder in thousands of results. He didn't realize he could use filters to reduce the results because the screen reader always started with the results first.
>
> Once he got more accustomed to what was going on, he found that filtering got easier, and he started to remember which filters were available where. In addition, more legal knowledge was helping him as well. For example, now that he knew more about bankruptcy law, he knew which courts to focus on using the post-search filters.
>
> Mitch was thankful that his legal research professor, a law librarian, was willing to go the extra mile for him. She spent many hours working with him, listening to his screen reader to help him figure out where it was taking him and explaining how to get to and use tools that were otherwise hidden from him. He knew her patience went far beyond what most professors would do, and her dedication to his success made a real difference in Mitch's law school experience.

One particular challenge is navigating and searching the legal research databases. The major commercial legal research database vendors have interfaces that are purposefully designed to offer many layers of information and many links to further information. Take, for example, the main search page of Westlaw's, Lexis's, or Bloomberg Law's latest research platforms. Each will include a search bar, most likely with limiters to choose from built into the search bar, links to numerous categories and dozens of subcategories of content, links to more advanced searching options, as well as folders, history, settings, and multiple additional products within the corporate family. After running a search, the results page includes not only the resulting entries but also numerous filters that could be applied, sorting and viewing options, information about the content, relevance, and legal standing of each result, other suggested resources, and the usual options to print, download, go to full screen, and so on. In short, these pages are packed with information, and they can be overwhelming for someone relying on assistive technology such as a screen reader.[xx] Screen readers can inadvertently create more difficulties for users by announcing each hyperlink and distracting from the text of the page. Additionally, the quality of the screen readers themselves may impact

the accessibility of these complex databases. Some free or inexpensive screen readers were designed to conduct basic Google searches, not process complex databases.

Screen reading software typically reads a page of text from top to bottom, left to right, and if the page is divided into panels of text, it will read all the way down one panel before it begins again at the top of the next. The default starting point can be overridden in a web page's coding. Still, with the layers and columns of information present on virtually every page within Westlaw, Lexis, or Bloomberg Law, no matter where the screen reader starts, it is likely to bog down the user in detail. For example, on the main search page of any of the major databases, the screen reader may read the first category of material followed by all its subcategories before it indicates that there is a second and a third category. Once the user runs a search and is on a page listing results, the coding tells the screen reader to start with the results, which arguably makes sense. However, the screen reader will go on to read through every single entry in the list of search results—and not just the line or two of each entry that a sighted user would see, but the entire court opinion, statutory text, or treatise section!—before even mentioning to the user that there are filters that could be applied.[xxi]

Government websites cause problems, too, just like the commercial legal research platforms. For example, at federalregister.gov, which is rich with content and well-designed in many ways, when a blind user clicks on a link to the text of a rule, the screen reader will immediately start to read the entire rule, regardless of length (often dozens, perhaps hundreds, of pages) and with no indication as to how long the rule is. In addition, the coding does not tell the screen reader that there is data about the document available—agency, date, document identifiers, and page numbers—that would help the user determine whether the document is worth reading, nor does the coding provide the opportunity to escape the text of the rule before the screen reader reaches the end. Meanwhile, for the sighted user, the data about the document is visually available alongside the text of the rule, providing the sighted user much more information on which to base the "to read or not to read" decision.

In addition to legal research resources, law librarians may need to pay attention to accessibility issues with law practice management software systems such as those that handle case management, document automation, and e-discovery. Many academic law librarians are teaching law practice technology courses. Of course, many firm librarians are using the technology themselves, teaching others to use it, or managing it for the firm. As with the legal research databases, these software platforms are complex and many-layered, and some will do a better job of designing for accessibility than others. Does a law librarian need to know the accessibility features and limitations of every system? No, but it is important to be conversant in the sorts of issues different people may face and the practices and standards used to design for those issues so that we can bring more knowledge to bear when working with students and attorneys.

Teaching/Training Materials

Many law librarians, whether in schools, firms, courthouses, or public law libraries, do quite a bit of teaching and training. There are a few special considerations regarding accessibility when teaching and developing instructional materials, and some easy-to-implement steps can make training materials more accessible.

Like anyone else, law students and lawyers have disabilities, such as dyslexia or ADHD, making normal learning situations more challenging. A few of the principles articulated in universal design can guide legal research instructors in making learning materials better for everyone, including those with disabilities. Take, for example, the principle of simple and intuitive use. In application, this idea can prompt a librarian to create a consistent "look and feel" across all instructional materials. In doing so, the librarian reduces the learner's need to adjust to and filter out new but extraneous materials on each page. A consistent look and feel will place directions in the same location every time, highlight important information in the same way, use the same typeface and font size for the same kind of information, etc. Consistency in substance is important as well. For example, instructions should be worded in the same way each time, like concepts should be grouped, graphics should have consistent traits and labels, and organization should be coherent and reliable.

CONCEPT IN ACTION: ORGANIZING YOUR LMS

In light of the principle of simple and intuitive use, Josie uses the front page of her course's site in the learning management system to display a chart that shows, week-by-week, what the pre-class work is, what will be needed in class, and what the homework is. Everything the students need is linked from this page; they do not have to dig through files or lists of assignments to find what they need.

Another relevant universal design principle is the idea that information must be perceptible in multiple ways. In education, this is similar to the idea that there are "multiple intelligences"– that different people learn best in different ways. Some people learn best through visual input, some through listening, and some through a tactile experience. As law librarians, we provide better instruction when we create some redundancy in presenting information–when we present the content in more than one way. For example, providing a written explanation (pre-class reading) accompanied by an illustration of some kind (graphic on PowerPoint slide or a database demonstration) and a verbal component (lecture) helps learners of all kinds. Law librarians have been working hard in recent years to improve their instruction, making it more effective for more learners.

In addition to multiple modes of instruction, many of the tools law librarians use to create

instructional materials offer easy ways to increase accessibility in a single mode. For example, using Microsoft Word's Styles feature to differentiate between levels in a hierarchy of information—headings, subheadings, content, etc.—simplifies navigation for students who are simply reading the text visually and those who are using a screen-reader.[xxii] Similarly, Word, PowerPoint, and similar products and WYSIWYG webpage editors make it easy to create alternate text for images (or indicate that the image is decorative only) so that screen readers can tell the user what the image portrays. As mentioned earlier, many video platforms are making auto-generation and editing of captions and transcripts easy now too. All in all, there are many easy, quick ways that law librarians can add perceptibility to instructional materials.[xxiii]

LAW LIBRARIANS AS ADVOCATES

So far, this chapter has looked at the role of law librarians as an ally for library users with disabilities—how can we help, what stumbling blocks we should be aware of, how can we create better instruction. But law librarians can also advocate for better accessibility in libraries and legal research products. Talking to vendor representatives is an immediate way to advocate and can result in indirect consequences. For example, a conversation with a Lexis law school representative about the enrollment of a blind student resulted in a direct connection for the student with a blind attorney at LexisNexis. This connection made a tremendous difference to the student.

Other advocacy opportunities exist within professional organizations. The American Association of Law Libraries (AALL) has a Social Responsibility Special Interest Section as well as a Government Relations Committee specifically focused on advocacy. There is also AALL's Committee on Relations with Information Vendors (CRIV), which provides an official avenue for communications with legal research vendors. This could be an especially useful avenue for advocacy.

Professional organizations also provide venues for speaking and writing about accessibility issues in law librarianship, and spreading the word about work done to create greater accessibility, or where more work is needed, can be an effective form of advocacy. There is always room to share new ideas and information from monthly newsletters to peer-reviewed journals, from local to national presentations.

On a more immediate scale, law librarians can advocate for people with disabilities within their own organizations. We can be the ones that make sure there is a screen reader available on a computer in the library or spread the word about captioning online instructional videos. We can make sure our signage is clear, concise, and high in contrast. We can find and provide information on accessibility to other decision-makers.

CONCLUSION

Given librarians' longstanding commitment to equitable access for all people, it is no surprise that accessibility for those with disabilities is a priority. Law librarians face particular challenges in striving for accessibility because of the complexity not only of the law and its publication schema but also the density of information in online legal research databases. The many layers of information that are important in legal research create accessibility roadblocks.

To more successfully advocate for and create accessible legal materials, law librarians can learn more about the wide variety of sensory and motor impairments, what technologies and tools exist to help with these impairments, and how to incorporate these technologies and tools into everything we do. When we plan for equitable access from the start—the fundamental idea of universal design—we end up with better libraries, both physical and digital, for everyone.

DIVE DEEPER

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