

IT Accessibility Risk Statements and Evidence

This document was created by the [EDUCAUSE IT Accessibility Constituent Group](#) to help identify accessibility risks that IT leaders should consider in their risk management process.

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Note: In this document *electronic and information technology (EIT)* is used instead of *information technology (IT)* because existing requirements, such as Section 508, use EIT in defining the scope of what needs to be accessible.

1. Risk Statement: Failure to allocate sufficient resources and authority to coordinate and implement the Electronic and Information Technology (EIT) Accessibility Policy.
 - a. *Note:* We feel that this is one of the most important factors in successfully implementing EIT accessibility. Without sufficient resources, policies and procedures are just words.
 - b. Risk source, documentation, or proof:
 - i. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - ii. [Youngstown State University Resolution Agreement \(PDF\)](#)
2. Risk Statement: Failure to make faculty, staff, and students aware of institutional resources for accommodation and accessibility.
 - a. Risk source, documentation, or proof:
 - i. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - ii. [Louisiana Tech University Settlement Agreement](#)
3. Risk Statement: Failure to systematically and effectively monitor EIT content and services to ensure accessibility.
 - a. Risk source, documentation, or proof:
 - i. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - ii. [Youngstown State University Resolution Agreement \(PDF\)](#)
 - iii. [Atlantic Cape Community College Consent Decree \(PDF\)](#)
 - iv. [California Community Colleges State Audit Report](#)
 - v. [South Carolina Charter School District Resolution Agreement \(Word\)](#)
4. Risk Statement: Failure to provide accurate video captioning.
 - a. Risk source, documentation, or proof:
 - i. [Complaint against Harvard \(PDF\)](#)
 - ii. [Statement of Interest of the United States of America in the Harvard Case \(PDF\)](#)
 - iii. [Complaint against MIT \(PDF\)](#)
 - iv. [Statement of Interest of the United States of America in MIT Case \(PDF\)](#)
 - v. [University of Maryland lawsuit expansion to include captioning athletic department website media](#)
 - vi. [Netflix Consent Decree](#)
 - vii. [Amazon accused of noncompliance with video captioning rules \(PDF\)](#)
5. Risk Statement: Failure to provide an accessibility policy that demonstrates the campus's commitment to EIT accessibility.

- a. Risk source, documentation, or proof:
 - i. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - ii. [Youngstown State University Resolution Agreement \(PDF\)](#)
 - iii. [University of Montana Settlement \(PDF\)](#)
 - iv. [Penn State Settlement](#)
 - v. [Louisiana Tech University Settlement Agreement](#)
 - vi. [Florida State University Settlement Agreement](#)
 - vii. [South Carolina Charter School District Resolution Agreement \(Word\)](#)

6. Risk Statement: Failure to define a technical standard for implementing EIT accessibility (such as WCAG 2 or Section 508).
 - a. Risk source, documentation, or proof:
 - i. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - ii. [Youngstown State University Resolution Agreement \(PDF\)](#)
 - iii. [University of Montana Settlement \(PDF\)](#)
 - iv. [Penn State Settlement](#)
 - v. [Louisiana Tech University Settlement Agreement](#)
 - vi. [Florida State University Settlement Agreement](#)
 - vii. [Law School Admission Council Settlement Agreement](#)
 - viii. [Chaves County, New Mexico \(PDF\)](#)
 - ix. [Orange County Clerk of Courts \[Florida\] Agreement](#)
 - x. [Peapod Settlement Agreement \(PDF\)](#)
 - xi. [H&R Block Consent Decree](#)
 - xii. [Nueces County, Texas, Settlement Agreement \(PDF\)](#)
 - xiii. [Charles Schwab Agreement](#)
 - xiv. [Bank of America Agreement](#)
 - xv. [Safeway Web Accessibility Settlement Agreement](#)
 - xvi. [Major League Baseball Settlement Agreement \(First Addendum\)](#)

7. Risk Statement: Failure to assign a person or entity to coordinate institution-wide accessibility.
 - a. Risk source, documentation, or proof:
 - i. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - ii. [Youngstown State University Resolution Agreement \(PDF\)](#)
 - iii. [Chaves County, New Mexico \(PDF\)](#)
 - iv. [Madison County, New York, Settlement Agreement \(PDF\)](#)
 - v. [Nueces County, Texas, Settlement Agreement \(PDF\)](#)

8. Risk Statement: Failure to implement a procedure to ensure information obtained, provided, or developed by third parties is accessible.
 - a. Risk source, documentation, or proof:

- i. [Louisiana Tech University Settlement Agreement](#)
 - ii. [Penn State Settlement](#)
 - iii. [Complaint against Miami University \(PDF\)](#)
 - iv. [Motion to Intervene: Miami University \(PDF\)](#)
 - v. [Department of Justice and Department of Education—Joint "Dear Colleague" Letter: Electronic Book Readers](#)
 - vi. [DOJ Letter to CU-Boulder \(Google Apps\)](#)
 - vii. [NFB Lawsuit against Northwestern University \(Google Apps\)](#)
 - viii. [NFB Lawsuit against New York University \(Google Apps\)](#)
 - ix. [NFB Lawsuit against Oregon School Districts \(Google Apps\)](#)
 - x. [Arizona State Lawsuit](#)
 - xi. [Case Western Reserve University Complaint](#)
 - xii. [Darden School of Business Complaint](#)
 - xiii. [Pace University Complaint](#)
 - xiv. [Princeton University Complaint](#)
 - xv. [Reed College Complaint](#)
 - xvi. [Capella University Lawsuit](#)
 - xvii. [Mesa Community College and Maricopa Community Lawsuit \(PDF\)](#)
 - xviii. [edX Settlement Agreement](#)
 - xix. [Homeland Security Lawsuit \(PDF\)](#)
 - xx. [Charles Schwab Agreement](#)
 - xxi. [Department of Transportation Nondiscrimination on the Basis of Disability Regulation \(Kiosks\)](#)
9. Risk Statement: Failure to implement a procedure, which ensures procured EIT is accessible, such as including accessibility requirements in RFPs and contractual language.
 - a. Risk source, documentation, or proof:
 - i. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - ii. [Youngstown State University Resolution Agreement \(PDF\)](#)
 - iii. [Penn State Settlement](#)
10. Risk Statement: Failure to provide regular, ongoing training, instruction, and support at all levels (e.g., administrators, faculty, IT staff, support staff, student employees) appropriate to a person's roles and responsibilities, regarding the institution's EIT Accessibility Policy and procedures, tools, resources, and techniques to ensure the policy and procedures are effectively and consistently implemented.
 - a. Risk source, documentation, or proof:
 - i. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - ii. [Youngstown State University Resolution Agreement \(PDF\)](#)
 - iii. [Penn State Settlement](#)
 - iv. [Louisiana Tech Agreement](#)

- v. [South Carolina Charter School District Resolution Agreement \(DOC\)](#)
 - vi. [Target Settlement Agreement \(PDF\)](#)
 - vii. [University of Montana Settlement \(PDF\)](#)
11. Risk Statement: Failure to implement accessibility solutions for EIT other than web-based, online, or software-based technologies, such as classroom controls, copiers, ATMs, and digital signage.
- a. Risk source, documentation, or proof:
 - i. [Penn State Settlement](#)
 - ii. [UC-Boulder](#)
12. Risk Statement: Failure to provide native EIT accessibility (e.g., relying on second-class EIT alternatives for people with disabilities.)
- a. Risk source, documentation, or proof:
 - i. [Penn State Settlement](#)
13. Risk Statement: Failure to provide a top-level website dedicated to accessibility, which serves as a central repository and includes, but is not limited to, accessibility information, news, tools, and best practices.
- a. Risk source, documentation, or proof:
 - i. [University of Montana Settlement \(PDF\)](#)
 - ii. [Penn State Settlement](#)
14. Risk Statement: Failure to provide accessible instructional materials and library resources in a timely manner.
- a. Risk source, documentation, or proof:
 - i. [Atlantic Cape Community College Consent Decree \(PDF\)](#)—"Making ACCC's integrated library system and its website fully accessible to blind students"
15. Risk Statement: Failure to create a culture where accessibility is considered a proactive need, but rather is considered a reactive accommodation need.
- a. Risk source, documentation, or proof: faculty and researcher complaints
16. Risk Statement: Failure to provide accessible websites.
- a. *Note:* A series of lawsuits has made it evident that accessibility of websites under Title III of the Americans with Disabilities Act (ADA) includes access for people with disabilities. Litigation, and threatened litigation, surrounding the issue is on the rise, exposing institutions to a potential claim that they are failing to comply with antidiscrimination laws. The argument, in a nutshell, is that institutions are violating Title III of the ADA prohibition on discrimination on the basis of disability because their site or app lacks

certain functionalities (such as including a text equivalent for every nontext element on a website and ensuring that all functions can be accomplished by using a keyboard instead of a mouse) that would make them accessible to people with disabilities.

- b. Risk source, documentation, or proof:
 - i. [Atlantic Cape Community College Consent Decree \(PDF\)](#)
 - ii. [Penn State Settlement](#)
 - iii. [University of Montana Settlement \(PDF\)](#)
 - iv. [Louisiana Tech Agreement](#)
 - v. [University of Cincinnati Resolution Agreement \(PDF\)](#)
 - vi. [Youngstown State University Resolution Agreement \(PDF\)](#)
 - vii. [Florida State University Settlement \(PDF\)](#)
 - viii. [South Carolina Technical College System Resolution Agreement \(PDF\)](#)
 - ix. [California Community Colleges State Audit Report](#)
 - x. [Florida State University Settlement Agreement](#)
 - xi. [Complaint against Miami University \[Ohio\] \(PDF\)](#)
 - xii. [Motion to Intervene: Miami University \[Ohio\] \(PDF\)](#)
 - xiii. [McNeese State University Settlement Agreement](#)
 - xiv. [Law School Admission Council Settlement Agreement](#)
 - xv. [Mesa Community College and Maricopa Community Lawsuit \(PDF\)](#)
 - xvi. [National Museum of Crime and Punishment Settlement Agreement \(PDF\)](#)
 - xvii. [edX Settlement Agreement](#)
 - xviii. [Madison County, New York, Settlement Agreement](#)
 - xix. [Target Settlement Agreement \(PDF\)](#)
 - xx. [Peapod Settlement Agreement](#)
 - xxi. [H&R Block Consent Decree](#)
 - xxii. [Chaves County, New Mexico \(PDF\)](#)
 - xxiii. [Orange County Clerk of Courts \[Florida\] Agreement](#)
 - xxiv. [Newseum](#)
 - xxv. [Hilton](#)
 - xxvi. [Complaint against GSA's SAM.gov](#)
 - xxvii. [Olympic Games Lawsuit](#)
 - xxviii. [Charles Schwab Agreement](#)
 - xxix. [Amazon Agreement](#)
 - xxx. [Ramada.com and Priceline.com: New York State Attorney General Settlements](#)
 - xxxi. [American Cancer Society Agreement](#)
 - xxxii. [Disney Lawsuit](#)
 - xxxiii. [Department of Transportation Nondiscrimination on the Basis of Disability Regulation \(websites\)](#)
 - xxxiv. [Bank of America Agreement](#)
 - xxxv. [Safeway Web Accessibility Settlement Agreement](#)
 - xxxvi. [Major League Baseball Settlement Agreement \(First Addendum\)](#)
 - xxxvii. [Rite Aid Web Accessibility Agreement](#)

- xxxviii. [Accessible Credit Reports Agreement](#)
- xxxix. [Virtual Community School of Ohio Resolution Agreement \(Word\)](#)
 - xl. [South Carolina Charter School District Resolution Agreement \(Word\)](#)
 - xli. [City of Parowan, Utah, Settlement Agreement](#)
 - xlii. [Village of Ruidoso, New Mexico, Settlement Agreement](#)
 - xliii. [City of Fallon, Nevada, Settlement Agreement](#)
 - xliv. [City of Isle of Palms, South Carolina, Settlement Agreement](#)
 - xlv. [City of Vero Beach, Florida, Settlement Agreement](#)
 - xlvi. [City of DeKalb, Illinois, Settlement Agreement](#)
 - xlvii. [Weight Watchers Settlement Agreement](#)
 - xlviii. [Scribd Ruling Denying Motion to Dismiss \(PDF\)](#)

17. Risk Statement: Failure to provide captioning of announcements and commentary made over public address systems during athletic and other public events

- a. Risk source, documentation, or proof:
 - i. [National Association of the Deaf \(NAD\) lawsuit against the University of Maryland College Park](#)
 - ii. [Ohio State Lawsuit](#)
 - iii. [Ohio State University Consent Decree \(PDF\)](#)—United States District Court, Southern District of Ohio
 - iv. [University of Kentucky Complaint \(PDF\)](#)
 - v. [Washington Redskins Lawsuit](#)

18. Risk Statement: Failure to thoroughly test EIT for accessibility beyond automated testing or VPAT statements

- a. Risk Source, documentation, or proof
 - i. [Benchmarking web accessibility evaluation tools: measuring the harm of sole reliance on automated tests](#)

19. Risk Statement: Failure to provide audio descriptions

- a. Risk source, documentation, or proof
 - i. [National Museum of Crime and Punishment Settlement Agreement \(PDF\)](#)