

Executive Summary

Research libraries have a responsibility to make library collections and services universally accessible to their patrons. Doing so is consonant with research library community values and is also necessary in order to comply with long-standing legal requirements. The role of research libraries has changed dramatically with the adoption of information technologies and network-based services, and these technologies are similarly transforming education at all levels.

Both the utilization of these technologies and the digital revolution in publishing have been key drivers in transforming research libraries and their role in the teaching and research ecosystem. IT, networked services, and digital publishing have also spurred access to the growing corpus of digital resources. And as research libraries provide more content electronically to students, faculty members, researchers, and others, the role of libraries and other partners in their institutions and beyond is changing in the provision of information resources and services to patrons with disabilities. Whereas in the past, institutional offices of disability services were the primary facilitators of access to needed research resources and instructional materials, increasingly, the digital environment requires research libraries to be full partners with disability services offices and IT departments to ensure that these electronic resources, when acquired, are fully accessible to all members of the campus or research library community. Within this nexus of actors in ARL institutions, the library has both the mission and capacity to provide leadership on matters of content and the depth of experience to provide services to the entire institutional community.

This ARL task force report focuses on issues relating to users and members of the research library community who are print disabled.¹ Research libraries serve a user community with a diverse set of disabilities every day, and this report is a starting point to address issues and opportunities of accessibility more broadly.

Over the last two years, there have been a growing number of complaints filed by print-disabled individuals in academic and non-academic institutions in the US regarding use of inaccessible IT products and services. These include settlements with Case Western Reserve University, Reed College, Pace University, Arizona State University, Princeton University, and the Darden School of Business at the University of Virginia regarding inaccessible e-readers; a voluntary agreement between the National Federation of the Blind (NFB) and Penn State University to make university services more accessible, prompted by a US Department of Education Early Complaint Resolution process; a voluntary agreement with Florida State University to make some courses more accessible; a settlement with the Free Library of Philadelphia regarding use of inaccessible e-readers; and a settlement agreement between the US Department of Justice and the Sacramento Public Library regarding inaccessible e-readers. Settlements have favored those filing the complaints.

There are several outstanding challenges, such as the recent initiation of an investigation by the Department of Education into accessibility concerns at the University of Montana, which includes a focus on access to library services; and correspondence between the NFB and EDUCAUSE/Internet2, Courseload, and McGraw-Hill Education, in which the NFB states that the EDUCAUSE/Internet2 e-textbook pilot violates both the Americans with Disabilities Act (ADA) and guidance from both the Departments of Justice and Education. Discussions are now underway between the NFB, Internet2, and

EDUCAUSE. It is likely that more challenges will be forthcoming, given the tension between rapidly changing IT products and services and the need to ensure accessibility to these information services and resources for all members of academic and research community.

There is a growing sense of urgency regarding how best to effectively address these technology-based accessibility challenges in research libraries and in the broader institutional setting. The common practice today is to “fix after the fact,” either through scanning and editing printed materials as needed or retrofitting an online service or product well after adoption. This approach is costly for both the library and the institution, and it is not fully effective for individuals with disabilities. Moreover, this approach does not scale to the digital environment. New strategies are required.

In May 2012, ARL formed a Joint Task Force on Services to Patrons with Print Disabilities, sponsored by two of ARL’s strategic directions, Influencing Public Policies and Transforming Research Libraries. This task force was established to expand upon the ongoing work of the Library Copyright Alliance (LCA), of which ARL is a member, in support of an international instrument for the print disabled that is under active consideration by the World Intellectual Property Organization (WIPO).²

This ARL task force report highlights emerging and promising strategies to better align research libraries with other institutional and related partners in ensuring accessibility to research resources while fully meeting legal requirements. The report addresses the technological, service, and legal factors relating to a variety of information resources with respect to print disability. These factors resonate closely with the existing research library agenda to make scholarly communication more open, to foster independence among its user base by teaching information literacy, to honor and invest in diversity, as well as to focus on the growing trend toward universal design in instruction.

Findings

- The numbers of students with disabilities in post-secondary education is growing and includes diverse populations such as returning veterans.
- In the US, there are a number of laws that are the basis of federal policy for persons with disabilities, including the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and a 1998 amendment to the Rehabilitation Act (Section 508). Combined, these statutes and amendments ensure accessibility for individuals with disabilities to public accommodations, services, employment, and more.
- In Canada, accessibility law is under provincial or state jurisdiction. There is no national legislation specific to the area of accessibility. Therefore, practices supporting people with disabilities may vary from province to province.
- The US Department of Justice (DOJ) Civil Rights Division and the US Department of Education (ED) Office of Civil Rights share oversight and enforcement of legal provisions relating to individuals with disabilities at colleges and universities. In this role, ED and DOJ issued guidance to colleges and universities in 2010 stating that all programs, including pilot programs, are fully subject to the nondiscrimination requirements of the ADA and Section 504, including “ensuring equal access to emerging technology.”³
- Retrospective print library collections and prospective digital library resources require very different strategies to achieve accessibility for patrons with print disabilities.

- E-book accessibility may involve as many as three different considerations: the accessibility of the content, the accessibility of the reading platform, and the accessibility of the device.
- Most of the user-facing adaptive technology tools require electronic text to be properly encoded for the tool to work. It is this basic requirement that is the greatest barrier to making print library collections and library-mediated digital resources accessible.
- The US Copyright Act recognizes the importance of making works accessible and provides several specific exceptions that support library efforts to create derivative works for this purpose, including section 107 (fair use), section 110(8) (certain performances and displays) and section 121 (Chafee Amendment). A recent court decision, *The Authors Guild, Inc., et al., v. HathiTrust, et al.*, strongly affirms that libraries may rely upon fair use and the Chafee Amendment of the Copyright Act to make works accessible.
- Recently, there have been positive updates to Canadian copyright law, the Copyright Modernization Act, regarding educational use in general and accessibility in particular. Provisions in the act will make the following changes, according to the Library of Parliament summary: the bill provides “amendments to the exceptions available to educational institutions, libraries, museums, archives and persons with a ‘perceptual disability’ in order to facilitate the use of digital technologies and make the provisions more technologically neutral.”⁴
- Content provided by libraries is increasingly acquired digitally through a license that provides specific terms of use. These terms may significantly limit libraries’ ability to make materials accessible—including journals, databases, e-books, and online textbooks—as accessibility features may not be built into the vendor platform or the terms and conditions of the license.
- Universal design in instruction or learning (UDI or UDL) recognizes that designing the classroom for maximum inclusion of diverse learning styles and abilities, without sacrificing either standards or aesthetics, will bring unanticipated benefits to the entire population served.
- Studies have demonstrated that, in addition to being more sustainable, integrated accessibility features are also far less costly in the long run. Moreover, there are many instances of accessible technologies leading true innovation and widespread adoption, “including the typewriter, the telephone, email, the PDA, speech synthesis and recognition. These innovations resulted from the need to meet accessibility needs of individuals.”⁵

Recommendations

- The growing demand for instructional e-content and burgeoning digital library collections requires greater collaboration amongst all institutional partners, including academic leadership, research libraries, disability services, and information technology services. These partners should share knowledge, define roles, and become knowledgeable about print disabilities, in order to effectively serve users, to meet the requirements of federal and provincial law, to fulfill mission, and to move the market.
- Members of the research library community should collaborate within each institution and actively participate in cross-institutional and cross-industry efforts to advance universal design standards for digital information resources, library-mediated or otherwise. Such collaboration will also be most cost effective in acquiring accessible information products and services.

- Research libraries should institute a plan to make all future websites, pages, and documents accessible while tackling older web resources over time.
- Universal accessibility should be embedded in future licensed and acquired products and services so special conversion to a usable format will only be required for retrospective works. With born-digital texts, e-readers, and other mobile devices, research libraries should advocate for accessible solutions up front—born-accessible materials—obviating the need for resource-intensive reformatting and retrofitting. Accessibility should be a central decision factor in choosing information products and services. Such an approach will meet both mission and the law.
- Accessibility and universal design considerations should be integrated into the library's technology planning and procurement processes. New technology-based library services should be evaluated for accessibility standards.
- Licensing must be done deliberately to protect the values and meet the legal requirements of accessibility, particularly in light of libraries' increasing reliance on licensed content in the digital environment. Research libraries should negotiate for more favorable terms in order to permit broader latitude to adapt content to meet the needs of patrons. With copyrighted works, research libraries should aggressively assert fair use in support of accessible services for the print disabled.
- Research libraries should have user-focused policies and procedures for patrons with disabilities that are readily available and kept up to date; accessibility service awareness needs to be a standard part of staff training.
- Research libraries should designate a liaison librarian who can provide or coordinate library assistance for users in partnership with the institution's disability services office and central IT. Research libraries should also provide professional development for all staff to better understand disabilities, including learning disabilities.
- Research libraries should identify a point person to partner with institutional assistive technology experts and information technologists to monitor trends and developments in this area on an ongoing basis, such as conducting usability testing with disabled students, faculty, and staff as well as helping to guide the organization's efforts to provide universal access for library collections and services. Similarly, this team should work with legal services and stay up to date on legal developments and best practices so that licensing and fair use determinations reflect current practice.