Caption This!

Accessibility Law and Providing Captioning Services in Your Library

Karen E. Cowen  Amanda N. Price  Stephanie Towery

Texas State University
The rising STAR of Texas

Member The Texas State University System
Coming up:

- Introduction
  - Captions and subtitles: What’s the difference?
  - Who needs captions?
  - Why caption?

- Captioning and the Law
  - Accessibility requirements
  - The law and its impact

- Moving Forward
  - Setting policy and establishing practice
  - Licensing
  - Budget decisions
  - Maintaining the program

- Workflows at Texas State University Libraries
Subtitles vs Captions

- Written dialogue only
- Translations of dialogue

- Dialogue + descriptive elements of sound
  - Ambient noise
  - Music notes and lyrics
  - Adds depth and emphasis to the scene
  - Provides context to some actions
Depth, emphasis and...
…context!

[WOLVES HOWLING]
Support for the hearing impaired…
AND MORE

- Auditory processing disorder
  - Auditory dyslexia
- ADD/ADHD
- Language processing disorder

- English as a second language
- Alternative modes of learning
  - visual vs auditory and tactile
- Supports Universal Design for Learning principles
Why Caption?

• Supports our goal of inclusiveness
• Supports our goal of accessibility
• Meets legal standards
Federal Law & Accessibility Standards

Stephanie Towery, J.D., M.L.I.S
Why Captions? Because it’s the law.

“Under [the ADA and 504], public accommodations must furnish appropriate **auxiliary aids and services** where necessary for effective communication … 42 U.S.C.§12182(b)(2)(A)(iii); 28 C.F.R. § 36.303. Auxiliary aids and services include **open and closed captioning** … among other methods. 28 C.F.R. § 36.303(b).”

Note that the process of requesting reasonable accommodation does not apply to the provision of auxiliary aids and services - those must be provided when the service is initially offered to anyone.

Rehabilitation Act Section 504 - federal funding recipients
Americans with Disabilities Act, Title II - state and local governments (state colleges & universities), Title III - public accommodations (all higher education)
Rehabilitation Act Section 508 - federal agencies
Some Higher Ed Consent Decrees (settlements) reference WCAG 2.0 AA 508
Refresh effective 1/18/2018 incorporated WCAG 2.0 A and AA
Many state laws require compliance with WCAG 2.0 A and AA
WCAG 2.0 requires captions

1.2.2 Captions (Prerecorded)
Level A

Captions are provided for all prerecorded audio content in synchronized media, except when the media is a media alternative for text and is clearly labeled as such.

https://www.w3.org/WAI/WCAG21/quickref/?versions=2.0&showtechniques=122%2C123&hidesidebar=true#qr-media-equiv-captions
What will happen if we don’t caption?

Lawsuits by students, employees, or public (includes disability rights groups)

Actions, including lawsuits, by Department of Education Office of Civil Rights

Actions, including lawsuits, by Department of Justice Disability Rights Section
Copyright is not an obstacle to captioning

It is not a copyright infringement to make copies of videos in order to create closed captioning. The copying of a copyrighted video for the purposes of providing access to the hearing-impaired is not infringement.

Authority: Chafee Amendment (Section 121) and the right to fair use (Section 107)

The only case interpreting the Chafee Amendment is the recent decision in Author’s Guild v. HathiTrust (HathiTrust).

HathiTrust holds that it is fair use to make copies to provide access to materials for people with disabilities.

HathiTrust also found that the Chafee Amendment did not preempt reliance on fair use. Additionally, in HathiTrust, a third party vendor, Google Books, scanned the copyrighted material on behalf of the Library, establishing that a library may rely on the right to fair use even when a third party vendor is the one doing the copying.

HathiTrust found that the Libraries could qualify as “authorized entities” under the Chafee Amendment and that the Chafee Amendment did not preempt the Libraries’ ability to rely on the right to fair use.
Moving Forward:

Establishing a Captioning Program

Amanda N. Price, Acquisitions
Planning for a Program

- Policy
- Licensing
- Budgeting
- Workflows
Setting Policy
What works for you?

Decisions for your collection’s captioning:

• What will be captioned?
  • All, including backlog
  • Currently purchased forward
  • Vendor provided only

• What will be the Caption defaults?

• How will you handle other languages?

• Will there be a note in your Catalog?

• How will you track spending?

• How will licensing be affected?
Licensing for Captions

- Negotiate for:
  - A Voluntary Product Accessibility Template (VPAT)
  - Vendor to provide captioning files
  - A captioning clause or addendum

Include a clause that allows captioning:

“Using an outside party or specialized software to add captioning is permitted, as long as the content of the presentation is not otherwise changed, nor kept or used by the outside party.”
Budget Decisions: Setting the stage for workflows

- Hosting/streaming on parent platform
  - Captioning provided by vendor

- Streaming on hosted platform
  - Ex: Alexander Street Press hosting service

- Streaming on library hosting platform
  - Vendor provided caption files
  - Third party captioning service
  - Option to caption in-house
In-house Captioning

- **Staffing**
  - Who will manage
  - Dedicated staff or incorporated into other duties?
- **Expertise**
  - Training
  - Ongoing skill (dictation, spelling, etc.)
  - Troubleshooting
- **Tools and specialized equipment**
  - Headphones
  - Captioning software and support
  - Dedicated computer(s) that meet software requirements
- **Time**
  - Balancing staff processing time for captioning vs their other duties
  - Creating, syncing, uploading, troubleshooting
  - Records management

**Budgeting:**
- Staff time
- + equipment
- + software
- + training
Captioning Service

• Outsource
  • Fewer internal staff and staff time
  • Little need for extra equipment or software

• Budgeting
  • Dollars per hour/minutes
  • Rev is $1 per minute, English to English; $3 - $7 English to other
  • How many minutes total needed?
  • Possible processing fees for outsourced work and invoice processing
  • Caption cost/minute + staff time + any processing fees

• Internal staff
  • Establishing (and continuing) expertise for workflows
  • Balancing time for outsource captioning work with regular duties
  • Troubleshooting issues
  • Uploads to platform (internal or vendor)
  • Invoice processing integrated with usual invoicing/payment workflows
The Captioning Program and Beyond

- Plan your processes, but not in a vacuum
- Keep communication channels open for priorities and feedback
- Have an established mechanism for problem reporting
- Engage in continuous assessment measures

P – Plan the project
D – Do the plan
C – Check for problems and improvements
A – Act to improve your processes

Establishing Workflows at Texas State

Karen E. Cowen
Head Collection Development Assistant
Current Systems at Texas State Libraries

- Streaming video platform: Ensemble (rebranded as Mediaflo)
- Captioning service: Rev
- Integrated Library System: Innovative Sierra
- One specialized staff person
- Average 45 minutes per video on processing, invoicing, records
Considerations

- Leased or perpetual
- Spoken language(s)
- Multiple files
- File from vendor
- In-house creation
- Third-party
- Captions on by default
- Other settings
### Ordering

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- Template
- One order per bib
- Current status
- Confirmation email
- File-ready email
- One PO per month
- Technical support
- Error codes
- Editing caption file
- Adjusting sync
Bibliographic Record

- Relevant fields to add
- Using macros
- Who edits bibliographic record
- Assigning tasks
### Invoicing and Paying

**User:** Amanda / Karen Price / Cowen (anp125@txstate.edu)

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**Total:** 26.80

- One per month
- Notes for multiple videos
- PO numbering
Images via Creative Commons
https://search.creativecommons.org/

- Slide 3a: https://bit.ly/2tDhsjh
- Slide 6b: https://bit.ly/2EbH9Mt
- Slide 7: https://bit.ly/2GLECfY
- Slide 14: https://bit.ly/2tAJKLf

For further reading:

- An Introductory Guide to Disability Language and Empowerment.
  http://sudcc.syr.edu/LanguageGuide/
- Disability Etiquette
- Information and Technical Assistance on the Americans with Disabilities Act.
  https://www.ada.gov/
- UDL Guidelines.
  https://www.nsta.org/disabilities/design.aspx
- Voluntary Product Accessibility Template (VPAT).
  https://www.itic.org/dotAsset/da002e81-9776-4d26-aa51-8a940884d1ab.pdf
  https://blog.amara.org/2018/05/02/10-free-tools-to-make-your-captioning-process-easier-in-2018/
- The Best Free Captioning Tools.
  https://blog.ai-media.tv/blog/the-best-free-captioning-tools
- 10 Best Closed Captioning Software 2019.

For Legal References please visit:
https://drive.google.com/open?id=1iVS_s67wvcCTpG9G2-jQOQD5FsI-t4US