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# Section 508 Information Technology Access

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## 1) What is Section 508?

Section 508 is a part of the Rehabilitation Act of 1973 which requires that electronic and information technology developed, procured, maintained, or used by the Federal government be accessible to people with disabilities. On August 7, 1998, the President signed into law the Workforce Investment Act of 1998, which includes the Rehabilitation Act Amendments of 1998. Section 508 was originally added to the Rehabilitation Act in 1986; the 1998 amendments significantly expand and strengthen the technology access requirements in Section 508.

## 2) How do these changes to Section 508 improve upon the earlier version?

The 1986 version of Section 508 established non-binding guidelines with no enforcement mechanism for technology accessibility. The 1998 version creates binding, enforceable standards and will incorporate these standards into Federal procurement regulations. Federal agencies will use these standards in all their electronic

and information technology acquisitions. Consistent government-wide standards will make it easier for Federal agencies to meet their existing obligations to make their technology systems accessible to people with disabilities, and will promote competition in the technology industry by clarifying the Federal market's requirement for accessibility in products intended for general use. The new version of Section 508 also establishes a complaint procedure and reporting requirements, which further strengthen the law.

## 3) To whom does Section 508 apply?

Section 508 applies to Federal departments and agencies. It does not regulate the private sector and does not apply directly to recipients of Federal funds. (See questions 11 through 18 for a discussion of application of Section 508 to state and local entities.)



## **4) What does Section 508 require of Federal agencies and departments?**

Section 508 requires that when Federal agencies develop, procure, maintain, or use electronic and information technology, they must ensure that it is accessible to people with disabilities, unless it would pose an undue burden to do so. Federal employees and members of the public who have disabilities must have access to and use of information and services that is comparable to the access and use available to non-disabled Federal employees and members of the public.

## **5) How will Federal agencies and departments know whether the electronic and information technology is available?**

New standards have been established to help Federal agencies determine whether or not a technology product or system is accessible. Federal agencies must comply with these accessibility standards for all electronic and information technology acquired on or after six months from the date the Access Board issued its final standards (Standards were issued December 21, 2000 and are effective June 21, 2001.) Technology developed or acquired for a Federal

agency by a contractor must also comply with the standards. If a Federal agency determines that it would pose an undue burden to comply with the standards, it must still provide information and data to individuals with disabilities through an alternative means of access that can be used by the individuals.

## **6) Are there any exemptions to the technology accessibility standards?**

A Federal agency does not have to comply with the technology accessibility standards if it would impose an undue burden to do so. This is consistent with language used in the Americans with Disabilities Act (ADA) and other civil rights legislation, where the term “undue burden” has been defined as “significant difficulty or expense.” However, the agency must explain why meeting the standards would pose an undue burden for a given procurement action, and must still provide people with disabilities access to the information or data that is affected.

## **7) How will Section 508 be enforced?**

Because the Section 508 standards will be incorporated into the Federal Acquisition Regulation (FAR),



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agencies' procurement of accessible technology will be subject to the same stringent compliance and enforcement mechanisms as other parts of the FAR. There is an administrative complaint process which becomes effective six months after the Board issues its final standards. It enables any individual with a disability to file a complaint alleging that a Federal department or agency has not complied with the accessible technology standards in a procurement made after that date. The complaint process is the same as that used for Section 504 of the Rehabilitation Act, for complaints alleging discrimination on the basis of disability in Federally-conducted programs or activities. It provides injunctive relief and attorney's fees to the prevailing party, but does not include compensatory or punitive damages. Individuals may also file a civil action against an agency.

## **8) What is meant by “electronic and information technology?”**

The Access Board defined “electronic and information technology” consistent with the Clinger-Cohen Act of 1996. That Act defines “information technology” to include “any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage,

manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.” It includes computer hardware, software, networks, and peripherals as well as many electronic and communications devices commonly used in offices.

## **9) What does the law mean by “accessible?”**

The standards developed by the Access Board explain the detailed technical and functional performance criteria that will determine whether a technology product or system is “accessible.” In general, an information technology system is accessible to people with disabilities if it can be used in a variety of ways that do not depend on a single sense or ability. For example, a system that provides output only in audio format would not be accessible to people with hearing impairments, and a system that requires mouse actions to navigate would not be accessible to people who cannot use a mouse because of a dexterity or visual impairment. Section 508 focuses on the overall accessibility of electronic and information technology systems, not on providing accommodations at individual work sites. Section 501 of the Rehabilitation Act requires



Federal agencies to provide reasonable accommodations for individuals with disabilities; it generally covers individual work sites but not overall technology systems. Even with an accessible system, individuals with disabilities may still need specific accessibility-related software or peripheral devices as an accommodation to be able to use it. For example, in order to use an accessible word-processing program, a person who is blind may need add-on software that reads text aloud; if the word-processing program could not be made compatible with a screen-reading program, it might not be accessible.

## **10) Does Section 508 apply to Web Sites?**

Federal agencies which provide information to the public or to their employees through web sites must ensure that such sites are available to all persons with internet or intranet access, including persons with disabilities. Section 508 does not apply to a private sector web site unless such site is provided under contract to a covered entity. For example, a Federal agency might contract with a consulting firm to collect and analyze some demographic data and make that information available to the public on

a web site. In that case, the web site or portion devoted to fulfilling the contractual obligation would be subject to Section 508. The firm's general web site, or the portion not devoted to the contracted study, would not be subject to Section 508.

## **11) How does Section 508 relate to States?**

States which receive Federal funds under the Assistive Technology Act of 1998 are required by that Act to provide an assurance of compliance with Section 508. Currently all states and territories receive Assistive Technology Act dollars and all have some form of Section 508 assurance. These state Section 508 assurances most frequently take the form of a simple assurance statement with limited or no specifics regarding implementation.

## **12) How is the "State" defined and who is covered under the State assurance?**

There is no definition of "state" for the assurance and thus there is no clear delineation of who is covered. Those most questionable include agencies that are closely related to state government but might not necessarily be considered the "state" such as colleges and universities, local



government and municipalities, local school districts, and other entities that have significant state and local funding.

### **13) How do the Access Board standards relate to the State assurance?**

The Department of Education, the agency responsible for administering the Assistive Technology (AT) Act, issued guidance letters (June 1999 and April 2000) indicating that state assurances for Section 508 compliance require use of the final Access Board standards. However, a number of states already adopted other types of access standards such as the W3C Web Access Standards in policy or guidelines. Since these standards are similar, it is unclear what action will be taken to align state adopted standards with the Access Board's standards. There are also questions regarding the use of the Access Board standards by educational entities to determine the accessibility of instructional technology. The Access Board standards were developed for information technology designed to provide access to federal government information and services by employees and members of the public. It is unclear if these standards are appropriate to use in the

determination of accessibility of instructional technology, especially teaching and learning media used with young children. Alternative access guidelines, such as those developed by the National Center for Accessible Media, may be more appropriate for educational entities to use or use of a combination of standards may be the most comprehensive way of assuring accessibility of instructional media. Currently, there is no national consensus on access standards for the full range of instructional technology products.

### **14) Is there an enforcement mechanism for the State assurance?**

The Department of Education in their guidance letters indicate that the AT Act does not require compliance with the enforcement provisions of Section 508. This seems to indicate that there is no administrative complaint process, injunctive relief, or civil action available to individuals with disabilities for enforcement. The only enforcement of the state assurance seems to be withholding funds under the AT Act. However, it is important to note that AT Act state grant awards are fairly small, about \$400,000 on



average, making this a limited enforcement option.

## **15) Are there plans to strengthen or clarify federal requirements for state and local compliance with Section 508?**

The Assistive Technology Act of 1998 may be becoming weaker in its ability to influence state compliance with Section 508. The AT Act has a sunset clause that effectively eliminates 23 states from the grant program before the Act is due for reauthorization. To date, efforts to add a Section 508 compliance requirement to larger federally funded state grant programs, like Vocational Rehabilitation, have been unsuccessful.

## **16) Does the ADA or Section 504 require information technology accessibility like Section 508?**

The ADA and Section 504 of the Rehabilitation Act do not specifically require information technology accessibility as does Section 508. The ADA and Section 504 are general anti-discrimination laws that require program and architectural accessibility which could include the provision of accessible information technology as a reasonable accommodation or as an auxiliary aid

or service necessary for equal access. The effective communication requirement of the ADA could also require the delivery of accessible information technology products. However, all of these requirements might also be met in other ways such as the use of human assistance or other program modifications. The ADA and Section 504 information technology access decisions are made for individuals on a case-by-case basis; whereas Section 508 information technology access decisions are made by determining if products adhere to the Access Board standards. To date, the Department of Justice and the Office for Civil Rights have not adopted any part of the Access Board standards for IT access as standards for compliance with the ADA or Section 504.

## **17) Is the Web covered by the ADA?**

In 1996, the Department of Justice responded to an inquiry regarding Web accessibility indicating that the ADA covered entities who use the Internet for communications regarding their programs, goods, or services “must be prepared to offer those communications through accessible means.” Thus one could argue that the ADA does require accessible web sites. However, the Justice response



went on to indicate that “instead of providing full accessibility through the Internet directly, covered entities may also offer other alternate accessible formats...to communicate the information contained in web pages.” There has not been subsequent formal clarification of the ADA requirements for web access since this letter and the Department of Justice has not adopted any standards for web accessibility as a requirement for compliance with the ADA.

## **18) Does IDEA require information technology or instructional technology to be accessible?**

The IDEA, similar to the ADA and Section 504, does not specifically require information or instructional technology to be accessible as does Section 508. IDEA is a law that requires the provision of a free, appropriate public education to all students with disabilities who need specialized instruction. The delivery of accessible technology and/or assistive technology could be required as part of a student’s individualized education program (IEP). However, a student’s IEP might also be implemented in other ways such as the use of paraprofessional assistance or program modifications rather than the delivery of accessible

technology. IDEA technology access decisions are made for individual students on a case-by-case basis; whereas Section 508 access decisions are made by determining if technology products adhere to the Access Board standards.

## **19) Are there other laws that govern information technology accessibility?**

A number of states and local agencies have adopted laws, policies, or executive orders that address one or more facets of information technology accessibility. A few states have statutes that require an access clause be included in all contracts for purchase of information technology products (hardware and software). Another handful of states have rules, policies or executive orders that require adherence to access standards for web development. Still other states have less formal guidance encouraging information technology accessibility without identification of specific access standards. Lastly, a few states have laws or policies that require electronic textbook procurement for specific educational entities. In Colorado, there is House Bill 00-1269 Concerning Information Technology Access For Individuals Who Are Blind.



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## 20) Where can I get more information on IT access in my state or territory?

Each state and territory has an assistive technology program funded by the Assistive Technology Act. That office is a good starting point for any questions you have about your state assurance for Section 508 compliance, any state laws or policies that your state may have regarding information technology access, and other questions about assistive technology and accessible information technology. Additional information about state information technology access laws and policies and contact information for most state programs can be found at [www.atap@ataporg.org](http://www.atap@ataporg.org)

### RESOURCES

Access Board

[www.access-board.gov/sec508/FAQ.htm](http://www.access-board.gov/sec508/FAQ.htm)

Association of Tech Act Projects (ATAP)

528 South Fifth Street, Suite 100  
Springfield, IL 62701  
217/522-7985

E-mail: [atap@ataporg.org](mailto:atap@ataporg.org)  
[www.atap@ataporg.org](http://www.atap@ataporg.org)

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601 E. 18<sup>th</sup> Avenue, Suite 130  
Denver, CO 80203  
303/315-1280 Main  
800/255-3477  
303/837-8964 TTY  
303/837-1208 FAX  
[www.uchsc.edu/atp](http://www.uchsc.edu/atp)

Assistive Technology Partners  
Western Slope Technical Assistance  
Center (WesTAC)  
2897 North Ave., Module 3A  
Grand Junction, CO 81501  
970/248-0876 Main  
970/248-0877 FAX/TTY  
[www.uchsc.edu/atp](http://www.uchsc.edu/atp)

The Legal Center for People with  
Disabilities and Older People  
455 Sherman St, #130  
Denver, CO 80203-4403  
303/722-0300  
800/288-1375  
303/722-0720 FAX  
[www.thelegalcenter.org](http://www.thelegalcenter.org)





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The Legal Center for People with  
Disabilities and Older People  
322 N. 8<sup>th</sup> Street  
Grand Junction, CO 81501  
970/241-6371  
800/288-1375  
970/241-5324 FAX  
[www.thelegalcenter.org](http://www.thelegalcenter.org)

Section 508  
[www.section508.gov](http://www.section508.gov)

Web Accessibility in Mind  
[www.webaim.org](http://www.webaim.org)

**For more information contact:**

**Assistive Technology Partners  
601 E. 18<sup>th</sup> Avenue, Suite 130  
Denver, CO 80203  
303/315-1280 Main 303/837-8964 TTY  
303/837-1208 Fax 800/255-3477  
[www.uchsc.edu/atp](http://www.uchsc.edu/atp)**

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