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The Accessibility of Federal Information and Data: A Brief Overview of Section 508 of the Rehabilitation Act

Nearly one in four Americans has a disability, according to 2018 estimates from the U.S. Census Bureau. Congress has recognized that in addition to making federal information and data available to the public, it must also make it accessible to people with disabilities. Section 508 of the Rehabilitation Act of 1973 (P.L. 93-112), as amended (29 U.S.C. §794d), provides that federal information and data are to be accessible to individuals with disabilities.

Accessibility in this context means ensuring that members of the public and federal employees with disabilities have access to and use of information and data that is comparable to that of people without disabilities.

These statutory requirements—commonly known to practitioners as Section 508—concern the accessibility of federal *electronic and information technology* (EIT). The law’s coverage and requirements illustrate the evolution of accessibility policy in the United States and how Congress has addressed the changing nature of barriers confronted by people with disabilities. Research suggests that providing accessible EIT improves the experiences of users both with and without disabilities.

This In Focus provides an overview of Section 508, as well as the standards for information technology (IT) and data accessibility set by the Architectural and Transportation Barriers Compliance Board (also referred to as the Access Board in 29 U.S.C. §792(a)(1)).

Section 508 Statutory Requirements

When Section 508 was first added to the Rehabilitation Act in 1986 (P.L. 99-506), the statute was concerned with the accessibility of electronic office equipment to people with disabilities. Congress substantially amended Section 508 as part of the Workforce Investment Act of 1998 (P.L. 105-220), requiring federal agencies, including the U.S. Postal Service (USPS), to develop, procure, maintain, or use EIT that is accessible to federal employees and members of the public seeking information, data, or services.

The law requires the creation of standards to implement the requirements necessary for accessible EIT (29 U.S.C. §794d(a)(2)(A)). These standards are to be incorporated into the Federal Acquisition Regulation (FAR), and each federal agency is to incorporate the standards into procurement policies and directives under its control (29 U.S.C. §794d(a)(3)). EIT that is procured by a federal agency is expected to meet these standards unless an exception or exemption applies (48 C.F.R. §39.203(a)). EIT does not need to comply with the Section 508 standards when it operates as part of a national security system; is incidental to a contractor for its performance on a federal contract; or is located in spaces frequented only by service

personnel for maintenance, repair, or occasional monitoring (48 C.F.R. §39.204).

The Access Board is an independent agency responsible for establishing the Section 508 standards. The President appoints 13 members of the board, of which at least a majority are to be individuals with disabilities. An additional 12 members are the heads of certain executive agencies (or their designees). The board is authorized by statute to conduct investigations, hold public hearings, and issue orders necessary to ensure compliance with various accessibility standards (29 U.S.C. §792(e)(1)).

Section 508 Standards

The Access Board issued the first EIT accessibility standards in 2000 (referred to as the “original 508 standards”). The board has the authority to periodically amend the standards to reflect technology advances or changes in EIT (29 U.S.C. §794d(a)(2)(B)). Revised standards took effect in 2018 (often called the “revised 508 standards”). These revised standards were subsequently incorporated into the FAR in 2021.

Accessible Electronic Data and Information. The standards are published in the *Code of Federal Regulations* (36 C.F.R. §1194 Appendix A). They direct executive agencies and the USPS to ensure that all information and communication technology (ICT) is accessible and usable by individuals with disabilities, either directly or with the use of assistive technology. ICT includes the technologies, equipment, systems, or processes that create, manipulate, store, display, receive, or transmit electronic data and information, as well as any associated content. In addition to hardware, such as fax machines or desktop computers, the standards apply to:

- software and applications (“apps”), including user interfaces;
- electronic content and the encoding that defines its structure, presentation, and interactions, including agency webpages and electronic documents;
- certain official, nonpublic-facing electronic content that constitutes an agency’s official business (e.g., an employee-facing intranet, electronic notices).

Web Content Accessibility Guidelines. The Section 508 standards incorporate several standards for ICT developed by standard-setting entities outside of the federal government, including the Web Content Accessibility Guidelines (WCAG) 2.0. WCAG 2.0 is an international standard developed in 2008 by the World Wide Web

Consortium. WCAG 2.0 provides criteria on how to present information and data on the internet in specific ways to meet the various needs of individuals with disabilities. WCAG 2.0 focuses on four “principles of accessibility:” Content must be “perceivable, operable, understandable, and robust.”

The consortium released WCAG 2.1 and WCAG 2.2 in 2023. Each successive WCAG identifies additional criteria for enabling accessibility. While the Access Board incorporates the earlier WCAG 2.0 into its Section 508 standards, the standards do permit the implementation of alternative technical and performance features that result in equivalent or greater accessibility than that provided through conformance to the standards (36 C.F.R. §1194 Appendix A E101.2). Thus, agencies do have some discretion, beyond conformance to WCAG 2.0, for how to ensure accessible electronic content.

Agency Compliance with Section 508

Governmentwide Roles. Section 508 requires the Access Board and General Services Administration (GSA) to provide technical assistance to individuals and federal agencies on the law’s requirements (29 U.S.C. §794d(b)). Through its Office of Government-wide Policy, GSA maintains [section508.gov](https://www.section508.gov), which centralizes guidance to and information for federal agencies.

The E-Government Act of 2002 (P.L. 107-347) assigned the Office of Management Budget (OMB) a role in overseeing the implementation of IT that is accessible to people with disabilities (44 U.S.C. §3602(e)(6)), including using the budget review process and other means to ensure compliance with Section 508 standards (44 U.S.C. §3602(f)(13)). In 2023, OMB issued a memorandum (M-24-08) with requirements and recommendations to agencies on implementing Section 508 and rescinded some of the previous implementation guidance it had issued. OMB uses the term *digital accessibility* in its 2023 memorandum, adding to the terms used by the law (i.e., EIT) and the Access Board (i.e., ICT) to contextualize what is to be accessible.

Agency Roles. OMB directs each agency chief information officer to establish a Section 508 program with a Section 508 program manager. A Section 508 program manager has an agencywide role, serving as the principal point of contact on accessibility. Program managers are expected to coordinate within their respective agencies to ensure compliance with Section 508 requirements, including with procurement personnel, contracting officers, IT program and project managers, and product managers. OMB and GSA advise agencies on using several specific tools, methods, and other strategies for ensuring Section 508 standards are incorporated into the acquisition lifecycle and for evaluating and monitoring conformance to those standards.

In the 118th Congress, S. 2910 would amend Section 508 to require the head of each agency to appoint a compliance officer who is directly accountable to the agency head and responsible for ensuring compliance with Section 508’s requirements.

Inaccessibility and Complaints of Noncompliance.

Federal employees and members of the public may submit complaints to federal agencies that allege noncompliance with Section 508’s accessibility requirements (29 U.S.C. §794d(f)(2)). Agencies must resolve Section 508 complaints using their internal procedures for complaints brought under Section 504 of the Rehabilitation Act, which, among other things, prohibits disability discrimination by executive agencies and the USPS (29 U.S.C. §794(a)). In February 2023, the D.C. Circuit ruled in *Orozco v. Garland* that members of the public and federal employees can sue federal agencies under Section 508’s enforcement mechanism (29 U.S.C. §794d(f)(3)). The ruling extends a private right of action to individuals with disabilities who file complaints requesting accessible EIT and seek only injunctive or declarative relief.

Separately, agencies may receive informal indications of inaccessible EIT from the public through specific feedback mechanisms. In its 2023 memorandum, OMB requires agencies to establish ways (e.g., web-based forms and emails) for the public to report problems with the accessibility of agency websites and other digital services. These feedback mechanisms, in addition to the instructions for filing complaints alleging noncompliance with Section 508’s requirements, are parts of an accessibility statement that agencies are expected to include on their websites.

Alternative Means and Best Meets. Exemptions to compliance with the Section 508 standards can be applied in acquisitions where (1) there is an absence of commercially available ICT that fully conforms to the standards, (2) it creates an “undue burden” on an agency, and (3) the desired ICT would require a “fundamental alteration” (48 C.F.R. §39.205(a)). When commercially available ICT does not fully conform to the standards, agencies are to procure ICT that best meets the standards and their needs. For any exemption under the FAR or the Section 508 standards, an agency must provide access to the information and data by an alternative means that meets the identified needs of individuals with disabilities.

Reporting. The Department of Justice is required to submit a biennial report to the President and Congress containing information and recommendations on the state of federal agency compliance with Section 508 and actions that agencies have taken on allegations of noncompliance (29 U.S.C. §794d(d)(2)). Section 752 of the Consolidated Appropriations Act, 2023 (P.L. 117-328; 136 Stat. 4719), requires annual reporting by GSA to certain congressional committees on compliance by each agency and governmentwide, including conformance to the Section 508 standards. GSA’s report for FY2023 stated that “overall compliance is well below expectations given the federal government has had over 20 years to implement” Section 508.

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