

United States Department of Education

Q & A

TITLE IV--REHABILITATION ACT AMENDMENTS OF 1998 SECTION 508: ELECTRONIC AND INFORMATION TECHNOLOGY

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 old version of Section 508 established non-binding guidelines for technology accessibility, while the new version will create 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 general products. The new version of Section 508 also establishes a complaint procedure and reporting requirements, which further strengthen the law.

3) Who does Section 508 apply to?

Section 508 applies to Federal departments and agencies. It does not apply to recipients of Federal funds, and does not regulate the private sector. However, states which receive Federal funds under the Technology Related Assistance for Individuals with Disabilities Act of 1988, are required by that Act to comply with Section 508.

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.

New standards will be established to help Federal agencies determine whether or not a technology product or system is accessible. Federal agencies must comply with these technology accessibility standards for all electronic and information technology acquired on or after August 7, 2000. 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.

5) How will these technology accessibility standards be developed?

By February 7, 2000 the Architectural and Transportation Barriers Compliance Board (Access Board) will issue and publish standards that will define which electronic and information technology is covered by Section 508, and will describe what is meant by ‘accessible technology’ by setting forth the technical and functional performance criteria necessary to implement the accessibility requirements. The Access Board will consult with the Departments of Education, Commerce, and Defense, the General Services Administration, the Federal Communications Commission, the electronic and information technology industry, and disability organizations; these organizations will sit on an Electronic and Information Technology Access Advisory Committee (EITAAC) to advise the Access Board as it develops the standards.

Six months after the Access Board publishes the standards, the Federal Acquisition Regulatory Council will revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under their control to incorporate the standards. The Access Board will periodically review and update the standards as necessary.

6) What are Federal agencies required to do in the short-term to comply with Section 508?

Within six months agencies must evaluate their current electronic and information technology systems for accessibility to individuals with disabilities, and submit a report to the Attorney General containing the results of the evaluation.

7) What other reporting requirements does Section 508 create?

Within eighteen months the Attorney General must submit a report to the President on the extent to which the electronic and information technology of the Federal Government is accessible to individuals with disabilities. In addition, every two years thereafter the Attorney General must report to the President and the Congress on Federal agency compliance with the requirements of the law, and on any actions on individual complaints.

8) Where can Federal agencies go for technical assistance?

The General Services Administration and the Access Board will provide technical assistance on the requirements of Section 508. Agencies and individuals may also seek information from the many public, non-profit, educational, or private institutions and organizations that specialize in making technology accessible to people with disabilities. These organizations, along with companies in the electronic and information technology industry, can assist agencies in identifying innovative technology or in developing accessible technology solutions.

9) Are there any exemptions to the technology accessibility standards?

A Federal agency does not have to comply with the 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.

Section 508 contains a limited exemption for national security systems as defined by the Clinger-Cohen Act of 1996. These are systems used for military command, weaponry, intelligence, and cryptologic activities. The exemption does not apply to routine business and administrative systems used for other defense-related purposes or by defense agencies or personnel.

10) How will Section 508 be enforced?

Because the Section 508 standards will be incorporated into the Federal Acquisition Regulation (FAR), agencies’ procurement of accessible technology will be subject to the same stringent compliance and enforcement mechanisms as other parts of the FAR.

There is also an administrative complaint process which becomes effective on August 7, 2000, two years after the date of enactment. 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 August 7, 2000. 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.

11) What is meant by ‘electronic and information technology’?

The Access Board will set forth in its standards a definition of ‘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.

12) What does the law mean by ‘accessible’?

The standards developed by the Access Board will 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 systems, not on providing accommodations at individual worksites. Individuals with disabilities may still need specific accessibility-related software or peripheral devices to be able to use an accessible system. 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 would not be accessible.

13) How does Section 508 apply to other Federal laws?

Section 508 in no way replaces or otherwise limits the rights or remedies available under any other existing Federal law that protects the rights of people with disabilities. As part of the Rehabilitation Act, it clarifies and strengthens the Federal government's existing obligation to ensure that technology is accessible to people with disabilities.