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Folder Title:
Disability - Electronic and Information Technology

Stack:	Row:	Section:	Shelf:	Position:
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Public Law: 105-220 (08/07/98)

(b) Electronic and Information Technology Regulations.--Section 508 (29 U.S.C. 794d) is amended to read as follows:

``SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY.

``(a) Requirements for Federal Departments and Agencies.--

``(1) Accessibility.--

``(A) Development, procurement, maintenance, or use of electronic and information technology.--When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology--

``(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and

``(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.

``(B) Alternative means efforts.--When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board under paragraph (2) would impose an undue burden, the Federal department or agency shall provide individuals with disabilities covered by paragraph (1) with the information and data involved by an alternative means of access that allows the individual to use the information and data.

``(2) Electronic and information technology standards.--

``(A) In general.--Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the 'Access Board'), after consultation with the Secretary of Education, the Administrator of General Services, the Secretary of Commerce, the Chairman of the Federal Communications Commission, the Secretary of Defense, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, including organizations representing individuals with disabilities, shall issue and publish standards setting forth--

``(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology specified in section 5002(3) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401(3)); and ``(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).

“(B) Review and amendment.--The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

“(3) Incorporation of standards.--Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards. Not later than 6 months after the Access Board revises any standards required under paragraph (2), the Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate the revisions.

“(4) Acquisition planning.--In the event that a Federal department or agency determines that compliance with the standards issued by the Access Board under paragraph (2) relating to procurement imposes an undue burden, the documentation by the department or agency supporting the procurement shall explain why compliance creates an undue burden.

“(5) Exemption for national security systems.--This section shall not apply to national security systems, as that term is defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

“(6) Construction.--

“(A) Equipment.--In a case in which the Federal Government provides access to the public to information or data through electronic and information technology, nothing in this section shall be construed to require a Federal department or agency--

“(i) to make equipment owned by the Federal Government available for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public; or

“(ii) to purchase equipment for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public.

“(B) Software and peripheral devices.-- Except as required to comply with standards issued by the Access Board under paragraph (2), nothing in paragraph (1) requires the installation of specific accessibility-related software or the attachment of a specific accessibility-related peripheral device at a workstation of a Federal employee who is not an individual with a disability.

“(b) Technical Assistance.--**The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.**

“(c) Agency Evaluations.--**Not later than 6 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the head of each Federal department or agency shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to and usable by individuals with disabilities described in subsection (a)(1), compared to the access to and use of the technology by individuals described in such subsection who are not individuals with disabilities, and submit a report containing the evaluation to the Attorney General.**

“(d) Reports.--

“(1) Interim report.--Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the extent to which the electronic and information

technology of the Federal Government is accessible to and usable by individuals with disabilities described in subsection (a)(1).

“(2) Biennial reports.--Not later than 3 years after the date of enactment of the Rehabilitation Act Amendments of 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f).

“(e) Cooperation.--Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide to the Attorney General such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) and prepare the reports under subsection (d).

“(f) Enforcement.--

“(1) General.--

“(A) Complaints.--Effective 2 years after the date of enactment of the Rehabilitation Act Amendments of 1998, any individual with a disability may file a complaint alleging that a Federal department or agency fails to comply with subsection (a)(1) in providing electronic and information technology.

“(B) Application.--This subsection shall apply only to electronic and information technology that is procured by a Federal department or agency not less than 2 years after the date of enactment of the Rehabilitation Act Amendments of 1998.

“(2) Administrative complaints.--Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 504 for resolving allegations of discrimination in a federally conducted program or activity.

“(3) Civil actions.--The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under paragraph (1).

“(g) Application to Other Federal Laws.--This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 501 through 505) that provides greater or equal protection for the rights of individuals with disabilities than this section.”.

Report Language

RIGHTS AND ADVOCACY

Electronic and information technology regulations

The House bill requires that the Director of the Office of Management and Budget establish procedures for each federal agency to provide written certification by September 30 of each year that it is in compliance with the accessibility guidelines, and to oversee agencies in complying with the requirements. The House bill, however, makes no changes to the guidelines for electronic and information technology accessibility.

The Senate amendment makes significant changes to current law in the areas of accessibility and

electronic and information technology standards. These changes include requiring Federal agencies to procure, maintain, and use electronic and information technology that provides individuals with disabilities with comparable access to what is available to individuals without disabilities. The Senate amendment also requires that the Architectural and Transportation Barriers Compliance Board with issuing electronic and information technology standards, establishes reporting requirements for Federal agencies, establishes, complaint procedures, and clarifies individual rights of action relative to section 505 of the Act.

The Conference agreement follows the Senate amendment with several changes. The Conference agreement clarifies provisions in order to be consistent with the Clinger-Cohen Act of 1996, clarifies procedures relating to the extent of the Federal government's responsibilities in providing public access to information, and modifies the procedures for filing complaints.

Cynthia Dailard 09/10/98 03:35:24 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc:
bcc:
Subject: Re: Language of Sec 508 as Passed

The Access Board (Architectural and Transportation Barriers Compliance Board) must publish standards within 18 months which (1) define electronic and information technology; (2) establish criteria to determine whether such technology of the Federal government is accessible to disabled people.

(This technology needs to be accessible both to Federal employees and the general public seeking information or services from the Federal government.)

Then, 6 months following the publication of these standards, the Federal Acquisition Regulatory Council must revise the Federal Acquisition Regulation, and each agency must revise their procurement policies, to ensure that all new technological acquisitions meet these standards.

Cynthia A. Rice

 Cynthia A. Rice 09/10/98 03:33:08 PM

Record Type: Record

To: Cynthia Dailard/OPD/EOP
cc:
bcc:
Subject: Re: Language of Sec 508 as Passed

Could you lay out how this relates to what the Access Board is supposed to do?
People had (apparently mis-) remembered that the AG did a report in 6 months and then the Access board did one in 18.

Cynthia Dailard

Cynthia Dailard 09/10/98 02:27:01 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc:
bcc:

Subject: Re: Language of Sec 508 as Passed 

You asked me to take a look at this language and find out what DOJ needs to do under the legislation. Heads of the various federal agencies must submit individual reports to the AG within six months of the date of the legislation's enactment, evaluating the extent to which electronic and information technology of their agency is available to disabled people. The AG is then required to issue a master report to the President which contains information on and recommendations regarding the extent to which electronic and information technology of the entire Federal Government is available to disabled people. The AG's report must be issued within 18 months of the date of the legislation's enactment. Since date of enactment was 8/7/98, the agencies' reports to the AG are due 2/7/99, and the AG's report to the President is due 2/7/2000.

So, the first thing we'll need to do is make sure that the agencies get their reports to the AG by the February deadline.

Cynthia A. Rice



Cynthia A. Rice

09/08/98 01:20:10 PM

Record Type: Record

To: Cynthia Dailard/OPD/EOP

cc:

Subject: Language of Sec 508 as Passed

----- Forwarded by Cynthia A. Rice/OPD/EOP on 09/08/98 01:20 PM -----



Lewis W. Oleinick

09/02/98 09:43:31 AM



Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc:

Subject: Language of Sec 508 as Passed



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