

Chapter 2.5

Understanding Section 508 and Its Implications for Distance Education

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ABSTRACT

Section 508 of the Rehabilitation Act mandates that federal agencies must ensure the provision of accessible electronic and information technology. Although this legislation has not formally been applied to higher education, it will inevitably have an impact on all academic institutions, particularly in the area of distance education. This analysis examines how the legislation applies to distance education technologies and technical requirements and provisions of the law. An overview of Section 508 standards and its application to distance education is discussed.

INTRODUCTION

On December 21, 2000, the Architectural and Transportation Barriers Compliance Board, also known as the Access Board, issued the final accessibility standards for electronic and information technology under Section 508 of the Rehabilitation Act. Section 508 “requires that when Federal agencies develop, procure, maintain or use electronic and information technology, Federal employees with disabilities have [equal] access to and use of information and data . . .” (Section 508 - 29 U.S.C. ‘ 794d). On June 21, 2001, these standards were put into effect, and specific provisions were outlined for the following technologies:

- Software applications and operating systems (1194.21)
- Web-based intranet and internet information and applications (1194.22)

- Telecommunications products (1194.23)
- Video and multimedia products (1194.24)
- Self-contained, closed products (1194.25)
- Desktop and portable computers (1194.26)

For each product category, the Access Board provides a discussion of the performance-based requirements and technical specifications to ensure accessibility and states that “when compliance with the provisions of these standards impose an undue burden, agencies shall provide individuals with disabilities . . . an alternative means of access that allows the individual to use the information and data” (Section 508). The implications of Section 508 are far reaching. IT companies that plan to do business with the federal government must now ensure that their products will adhere to the standards. Likewise, companies that develop equipment for videoconferencing and computer-mediated and Web-based applications will have to modify their products to work well with existing accessibility tools. Since the mandate was not funded, the costs for business and industry to make modifications of its IT products will inevitably affect the private sector. As a result, industry’s compliance to this legislation, combined with the government’s regulatory power, will no doubt have an impact on higher education.

THE U.S. DEPARTMENT OF EDUCATION’S RESPONSE TO SECTION 508

The U.S. Department of Education’s Office of Civil Rights (OCR) has always been involved with ensuring that compliance is met in accordance with all ADA regulations. The department oversees the development and support of several special education programs that promote equitable access to education and responds to any complaint made that raises question on equitable access in

educational facilities. With the emergence of new technologies, the OCR has received an increasing amount of complaints regarding accessibility issues. In response, the OCR has upheld several decisions to make public entities accountable for providing access to Web-based information and related technologies. In her report: “The Growing Digital Divide in Access for People with Disabilities: Overcoming Barriers to Participation,” Cynthia Waddell (1999) notes three such cases from California.

OCR Letter Docket No. 09-95-2206 (January 25, 1996)

Student filed a complaint that a university failed to provide equivalent access to the Internet. Student with a visual disability was required to make appointments with a personal reader attendant as the exclusive mechanism for access to the Internet . . . According to the OCR finding: *the issue is not whether the student with the disability is merely provided access, but the issue is rather the extent to which the communication is actually as effective as that provided to others.*

OCR Letter Docket No. 09-97-2002 (April 7, 1997)

Student filed a complaint that a university failed to provide access to library resources, campus publications, open computer laboratories, training on adaptive computer technology and computer test taking. According to the finding: *Title II of the ADA requires a public college to take the appropriate steps to ensure that communications with persons with disabilities are as effective as communications with others*” [28 C.F. R. 35.160 (a)]. OCR has repeatedly held that the term “communication” in this context means *the transfer of information, including (but not limited to) the presentation of a lecture, the printed text of a book and the resources on the Internet.*

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