

Web Accessibility Laws and Issues

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INTRODUCTION

The concept of access to information has changed in the past three decades to reflect the changes in the methods of receiving and conveying information. With the advent of information technology and the unprecedented opportunities created by the technology for people with and without disabilities, it has become apparent that information technologies have a tremendous potential for allowing people with disabilities to participate in mainstream activities and to support their ability to live independently. However, the new forms of access to information that have made it easier for non-disabled people have often created barriers for people with disabilities.

The notion of access to information involving the civil rights of people with or without disabilities arises from the fact that access to information through technology has increasingly become a necessary tool for success and the source of opportunity in education and employment. The disability rights movement in the United States originated during the post World War II era when large numbers of veterans who were disabled in the war joined the efforts of parents seeking education and independent-living options for their children with disabilities (Slatin & Rush, 2003).

A person with a disability is defined in the Americans with Disabilities Act (ADA) as “someone who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a record of such impairment, or a person who is regarded as having such impairment” (ADA, 1990). In defining Web accessibility, Section 508 of the Rehabilitation Act of 1973 as amended in 1998 documents that “Web sites are accessible when individuals with disabilities can access and use them as effectively as people who don’t have disabilities” (Section 508, 1998). Recently, we have seen a growing body of significant laws, regulations, standards, and guidelines concerning Web accessibility that im-

pact people with disabilities and their ability to fully overcome digital barriers and participate in the Web environment.

LEGAL MANDATES—LAWS, REGULATIONS, STANDARDS, AND GUIDELINES

Under the provisions of laws, some of the legal milestones that have direct impact on Web accessibility are Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and Section 508 of the Rehabilitation Act of 1973, as amended in 1998.

Section 504, Rehabilitation Act, 1973

Signed on October 1, 1973, Section 504 of the Rehabilitation Act is regarded as landmark legislation and the first civil rights law prohibiting recipients of federal funds from discriminatory practices on the basis of disability.

Core areas of the legislation consist of the prohibition of such activities as discriminatory employment practices and discrimination in the delivery of educational offerings, health, welfare, and social services, or any other type of programs, benefit, or services supported in whole or in part by federal funds.

Section 504 is currently applied to all entities that receive federal government funds, including states, counties, cities, towns, villages, and their political subdivisions, public and private institutions, public and private agencies, and other entities that receive federal money. Each federal agency has its own set of Section 504 regulations that guide its own programs. Over the years, the Rehabilitation Act has been amended several times to address the constant changes in technology and its impact on society. The amendments most relevant to the access to information

technology are those made to Section 508. As indicated in *The Accessible Future* by the National Council on Disability (NCD) (2001), the significance of the Section 504 lies not only in that it was the first statute to apply civil rights protections to people with disabilities, but that it also “furnished the model for major subsequent enactments, including the ADA.” Section 504 was legislated too early to specifically address the issue of access to services and programs provided over the Web.

Americans with Disabilities Act (ADA), 1990

Passed on July 26, 1990, the ADA establishes a clear and comprehensive prohibition of discrimination on the basis of disability. While Section 504 applies to federal government agencies and those that receive federal funds, the ADA extends the rights of equal treatment for people with disabilities to the private area, to all places of public accommodation, employers, and entities that deliver government services.

The core sections of the law are found in the first three titles:

- **Title I Employment:** Establishes significant protections against discrimination in employment;
- **Title II State and Local Government Activities:** Prohibits discrimination in the provision of public services by state and local governments;
- **Title III Public Accommodation:** Bans discrimination in the private sector in the provision of public goods, services, and communications.

Title II of the ADA requires that state and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities, such as:

- public education
- employment
- transportation
- recreation
- health care
- social services

- courts
- voting
- town meetings

Section 202, Title II indicates that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity” (ADA, 1990). Title II recognizes the special importance of communication, which includes access to information in its implementing regulation at 28 CFR Section 35.160(a). The regulation requires that a public entity must take appropriate steps to ensure that communications with persons with disabilities are as effective as communications with persons without disabilities (28 CFR 35.160[a]). State and local governments are also required to communicate effectively with people who have hearing, vision, or speech disabilities. The ADA mandates “effective communication, reasonable accommodations, and auxiliary aides and services” (ADA, 1990).

However, Web accessibility didn’t become prominent until 1996 when the Department of Justice (DOJ) responded to Senator Tom Harkin (D-Iowa), the author of the ADA, when he inquired on behalf of one of his constituents regarding Web page compatibility for the blind and other people with disabilities. In response, Deval Patrick, Assistant Attorney General, Civil Rights Division, stated that ADA Title II and III do indeed require covered entities to provide “effective communication” regardless of the media used, and that information offered through digital media must be offered through “accessible means” as well. The Internet is an excellent source of information and, of course, people with disabilities should have access to it as effectively as people without disabilities (DOJ, 1996). This response involves understanding to what extent the ADA requires Web pages to be accessible to people with disabilities. The DOJ’s ruling explains how the mandate for “effective communication” in ADA should apply to Web pages and Web design.

The Telecommunications Act of 1996 acknowledges user requirements for people with disabilities and subsequently mandates accessibility. This legislation requires manufacturers of telecommunications

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