S. HRG. 118–145

UNLOCKING THE VIRTUAL FRONT DOOR: ENSURING ACCESSIBLE GOVERNMENT TECHNOLOGY FOR PEOPLE WITH DISABILITIES, OLDER ADULTS, AND VETERANS

HEARING

BEFORE THE

SPECIAL COMMITTEE ON AGING

UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

WASHINGTON, DC

SEPTEMBER 21, 2023

Serial No. 118–08

Printed for the use of the Special Committee on Aging

Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

53–747 PDF WASHINGTON : 2023

SPECIAL COMMITTEE ON AGING

ROBERT P. CASEY, JR., Pennsylvania, *Chairman*

KIRSTEN E. GILLIBRAND, New York
RICHARD BLUMENTHAL, Connecticut
ELIZABETH WARREN, Massachusetts
MARK KELLY, Arizona
RAPHAEL WARNOCK, Georgia
JOHN FETTERMAN, Pennsylvania

MIKE BRAUN, Indiana
TIM SCOTT, South Carolina
MARCO RUBIO, Florida
RICK SCOTT, Florida
J.D. VANCE, Ohio
PETE RICKETTS, Nebraska

ELIZABETH LETTER, *Majority Staff Director*
MATTHEW SOMMER, *Minority Staff Director*

C O N T E N T S

UNLOCKING THE VIRTUAL FRONT DOOR: ENSURING ACCESSIBLE GOVERNMENT TECHNOLOGY FOR PEOPLE WITH DISABILITIES, OLDER ADULTS, AND VETERANS

Thursday, September 21, 2023

U.S. SENATE
SPECIAL COMMITTEE ON AGING
Washington, DC.

The Committee met, pursuant to notice, at 9:03 a.m., Room 106, Dirksen Senate Office Building, Hon. Robert P. Casey, Jr., Chairman of the Committee, presiding.

Present: Senator Casey, Braun, Blumenthal, Kelly, Fetterman, and Rick Scott.

OPENING STATEMENT OF SENATOR ROBERT P. CASEY, JR., CHAIRMAN OF THE COMMITTEE

The CHAIRMAN. The hearing will come to order. Thank you to our witnesses. I know I was running a little late, so didn't have an opportunity to greet our witnesses, but thank you for being here, and grateful to be here with Ranking Member Braun.

This month marks the 50th anniversary of the Rehabilitation Act amendments of 1973. When they became law, these amendments prohibited discrimination on the basis of disability by the Federal Government in federally funded programs and by Federal contractors.

With the passage of the Rehabilitation Act amendments, the Federal Government made it a priority to ensure that every person has access, access to government programs and services. It also established the Foundation for the Americans with Disabilities Act, passed some 17 years later.

Since the passage of the so-called Rehab Act, technology has become an important doorway to government services at the local, state, and Federal levels. The COVID–19 pandemic showed us again the importance of using websites and apps as a way to access government programs, services, and information.

Last year, this Committee examined the compliance, or I should say examined compliance, of one part of the Rehabilitation Act, Section 508, which requires Federal technology to be accessible for and usable by people with disabilities.

One of our witnesses, Jule Ann Lieberman of Devon, Pennsylvania, testified she could not access CDC's COVID data. Jule Ann

told us that at that time, "in crisis times, all need access to trusted information and services."

This is true for Federal agencies. It is equally important for state and local governments to provide critical services, especially those related to safety and emergency response.

In December of this past year, I released this report. The name of it is, ″Unlocking the Virtual Front Door.″ This report found accessibility problems with technology at the Department of Veterans Affairs, and unfortunately throughout the Federal Government. I am pleased that because of bipartisan efforts with members on this Committee, and through our Congress, some improvements have been made.

The Veterans Administration reorganized its technology access office and bolstered its efforts to make VA technology accessible. The Justice Department and the General Services Administration committed to new oversight and transparency of accessible Federal technology. Many Inspectors General are also taking a new look at accessibility.

For example, the VA Office of Inspector General plans to release a report on the accessibility of VA technology in the coming months, and we have seen progress to improve accessibility of state and local government resources. In early August, the Department of Justice issued a proposed rule setting website and technology accessible—accessibility standards for local and state governments.

These long overdue proposed standards are necessary to ensure people who are blind, deaf, have physical disabilities, or intellectual disabilities can access programs, services, and information provided by local and state government.

I commend the Justice Department for issuing these proposed rules. I know that the public will help strengthen them, and I look forward to the final rule to make all government technology more accessible for all Americans.

These are positive steps, but there—I should say, there are more. There is more work we can do. There are positive steps we in Congress can take. Recently, I worked with Senator Rick Scott to introduce the Veterans Accessibility Act.

Our legislation would create a VA advisory committee to oversee VA's compliance with all accessibility laws. People with disabilities would serve on the committee, providing important feedback, and today, a number of Senators and I will introduce the Federal Agency Accessibility Compliance Act.

Our bill will bolster the role of Federal Section 508 compliance officers in Federal agencies, require agency and department heads to personally certify, certify, that their organization's technology is accessible, and to post plans and timelines if their agency technology is not accessible.

These bills are common sense legislation designed to ensure Federal Government services, programs, and communications are accessible to all Americans, so, we have much more work to do to make websites and technology at all levels of government accessible, or, I might add, fully accessible.

I look forward to hearing from our witnesses about how we can accomplish that goal, and I will now turn to Ranking Member Braun for his opening statement.

OPENING STATEMENT OF SENATOR MIKE BRAUN, RANKING MEMBER

Senator BRAUN. Thank you, Mr. Chairman. Technology has definitely changed the way we all live. No doubt about it. It has been around for a long time. During COVID, though, far too many in-person services were closed.

People were forced to turn to the internet for basic services, from food to health care, and even local, state, and Federal Government services. I caution against ever closing physical doors again. Some places, technology is not widespread.

Even in a State like ours, where we have been working hard to get it into every nook and cranny. Many rural areas did not have adequate good high-speed internet. We are relying on it more and more all the time. Even though we need to keep, I think, person to person services open as well, we need to, with technology, design it with accessibility in mind.

Section 508 of the Rehabilitation Act mandates that Federal electronic and information technology be accessible to people with disabilities. However, we have heard from many constituents that the Federal Government has not done a good job at complying, far too often leaving people with disabilities behind.

That is why I joined with Chairman Casey in requesting a GAO study into the Federal Government's compliance. While this law generally does not apply to states, many states have taken it upon themselves to improve the accessibility of their services. States are generally going to be a lot more responsive, a lot quicker at getting something done.

Not to mention that they are laboratory of different ways that might make sense for other states to pay attention to and rub off on the Federal Government as well. While this law generally does not apply to states in a mandatory way, it still—we should not rely on this place to craft those solutions.

In Indiana, for instance, mobile and digital services are available, and we have done a good job with it. For more than a decade, the Indiana State Government website has included screen readers, quarterly accessibility audits, high contrast views, and modifiable screen size.

In 2021, Indiana added a new feature, accessiBe, which allows users to modify their experience for various accessibility profiles, including seizure, safe vision impaired, cognitive disability, or blindness, and the State works with local governments to make their website platform available to them, so far, more than 70 local governments in Indiana use the state government platform, of 92 counties. That is a pretty good percentage. We have got places like Bosma Enterprises in Indiana that have been on this pursuit for a long time.

It utilizes cutting edge assistive technology and computer training programs to help Hoosiers with vision loss regain their independence. I ask unanimous consent to enter into the record a statement from Bosma Enterprises.

The CHAIRMAN. Without objection.

Senator BRAUN. This type of work is not unique to just Indiana. States like Colorado, Ohio, Oklahoma, who we will hear from today, are all leading in technology accessibility.

We must ensure that states do not lose the flexibility they need to continue to introduce programs and mechanisms that work best for their unique communities. I am encouraged by the states' leadership and urge them to continue to explore ways to improve accessibility.

I yield back, Mr. Chairman.

The CHAIRMAN. Thank you, Ranking Member Braun. Now, we will introduce our witnesses. Our first witness is Mr. Chris Westbrook of Williamsport, Pennsylvania. Mr. Westbrook is an experienced Programmer and an Accessibility Engineer for Allyant, a company that evaluates whether websites are accessible for people with disabilities.

Mr. Westbrook is blind, hard of hearing, and has a mobility disability. That means he knows firsthand how accessible—or I should say inaccessible websites can impact people with disabilities.

Mr. Westbrook will discuss those personal experiences. He will also talk about the more common website barriers he has learned from his work. Mr. Westbrook, thank you for testifying today.

Our second witness is Ms. Ronza Othman. Ms. Othman is President of the Maryland Chapter of the National Federation of the Blind. She is also President of NFB's National Association of Blind Government Employees.

Today, she will discuss how members of these organizations have been impacted by inaccessible government technology at the Federal, state, and local levels. Thank you for sharing these stories with us today, Ms. Othman.

I will now turn to Ranking Member Braun to introduce our third witness.

Senator BRAUN. Mr. Jay Doyle is a CEO of Service Oklahoma, a State agency focused on making it easier for people in Oklahoma to get the services they need.

Service Oklahoma is a model of sate innovation that has been nationally recognized. Jay is a visionary leader with a diverse career that revolves around service. His work has been recognized through multiple accolades, including the OKC Biz 40, under 40, and Oklahoma's Next Generation Award.

Jay earned his Bachelor of Science in Biochemistry from the University of Oklahoma. He lives in Oklahoma City with his wife and daughter, and I understand you had an anniversary yesterday, happy anniversary, Jay, and thank you for being here today to testify.

The CHAIRMAN. Thank you, Ranking Member Braun. Our final witness is Ashley Lichtle. Ashley is the Americans with Disabilities Act (ADA) Coordinator for Salt Lake City, Utah. Previously, she worked as a disability advocate at the Partners for Inclusive Communities in Arkansas.

She will discuss why accessible websites and apps are important for Salt Lake City, as well as the City's efforts to make its technology more accessible. We appreciate you taking the time to testify.

Now we will start with our witness statements. We will start first with Mr. Westbrook. Please share your opening statement.

STATEMENT OF CHRIS WESTBROOK, ACCESSIBILITY ENGINEER, ALLYANT, WILLIAMSPORT, PENNSYLVANIA

Mr. WESTBROOK. Good morning, Chairman Casey, Ranking Member Braun, and members of the Senate Special Committee on Aging.

I am a blind Pennsylvanian serving as the Secretary for the Board of Directors of the Road to Freedom Center for Independent Living of North Central Pennsylvania. I also am President of the National Federation of the Blind of Pennsylvania's Deaf-Blind Division.

I also work in the field of web accessibility as an Accessibility Engineer for a company called Allyant, so, I deal with accessibility issues on a daily basis, both personally and professionally. Government websites must be accessible so that all constituents at all levels of government have access to programs, services, and information.

For example, imagine not being able to file your local taxes online. This is the situation I face simply because I have a disability. When I went to the county website to pay my taxes online, I couldn't because I couldn't find the button used to submit the form.

This ultimately forced me to seek sighted assistance to perform a task that everyone else can perform independently. Being forced to use sighted assistance means that I have to reveal private and sensitive information to someone else, something a sighted person would never have to do.

I have also tried to use our city's website, but I don't think I am getting all the information as the links all announce there is a submenu that I cannot access. This could result in missing key local services. People with disabilities need to be able to perform the same tasks as our non-disabled peers when it comes to work, recreation, and community living.

How do we get there? To make government websites accessible, we must improve standards such as the Web Content Accessibility Guidelines, WCAG. We must also recognize that accessibility is not a one and done deal but is always changing due to advances in technology and changes in website software.

To ensure that government websites and technology are accessible, people with disabilities need to be involved in the development of the websites and the monitoring of the websites to ensure they remain accessible.

One strategy for ensuring accessibility is to have people with disabilities, in conjunction with non-disabled advocates and peers, test and monitor websites and technology together. At Allyant, we perform what is called paired auditing, where a native screen reader user is paired with a sighted auditor.

This helps ensure that the disables are getting an equitable experience to non-disabled users and ensures possible barriers to accessibility are identified for all types of disabilities, not just blind people. For people like me, and really for all Americans, accessibility needs to become just another part of doing business.

Accessibility must be considered from the design phase all the way through the process of implementing and maintaining a website. That is how we make government technology and all technology accessible. Again, thank you for your time, and I hope my

testimony and expertise can move us closer to a world that is accessible to all.

The CHAIRMAN. Mr. Westbrook, thank you for your testimony, and thanks for your good work. We now turn to Ms. Othman for your opening statement.

STATEMENT OF RONZA OTHMAN, PRESIDENT, MARYLAND CHAPTER OF THE NATIONAL FEDERATION OF THE BLIND, PRESIDENT, NATIONAL ASSOCIATION OF BLIND GOVERNMENT EMPLOYEES, BALTIMORE, MARYLAND

Ms. OTHMAN. Good morning. I would like to thank Chairperson Casey, Ranking Member Braun, and all of the other members of the Special Committee on Aging for this opportunity to offer testimony on the impact of inaccessible technology in government.

My name is Ronza Othman, and by day I am an employee of an executive branch Federal agency, where I am an attorney and manage equal employment opportunity and civil rights programs. However, I am testifying before you in my personal capacity, as in my spare time, I serve as a leader in the National Federation of the Blind.

As Chairman Casey indicated, my roles include serving as the President of the National Association of Blind Government Employees, where I engage with current, retired, and prospective employees of Federal, state, and local government agencies across the Nation.

I am also the President of the National Federation of the Blind of Maryland, representing blind and low vision Marylanders who work for government, but who also, like most Americans, engage with Federal, state, and local government for a variety of reasons.

Access to information and communication technology, including hardware, software, web, and mobile applications, and other platforms and information is a critical civil right for the blind, other Americans with disability, and the ever-growing aging population.

Technology has been a true equalizer for blind and low vision Americans, as well as many others with disabilities, so much of the information we receive on a daily basis is communicated visually, and the proliferation of technology has enabled our community to gain access to that information at the same time as our non-disabled counterparts.

Today, I can use the phone in my pocket to operate my ring doorbell, operate my vacuum, set my thermostat, reheat my leftovers, and half a dozen other tasks in my house when I am not even at home. These are all mainstream technologies, not adaptations, made for people with disabilities.

However, the origins of these adaptations resulted in mainstream technology. In essence, when a manufacturer or developer chooses to build a product and includes accessibility at the beginning, virtually everyone can use it, but when it comes to engaging with our government, these technologies are woefully behind.

Often government procured, maintained, or developed ICT is not accessible to those of us with disabilities. It is neither difficult nor costly to make ICT accessible for individuals with disabilities. If accessibility is baked into the system at the development stage, it is simply coding in a way that ensures information is tagged properly

and navigable by assistive technology. Imagine making a pizza and adding the pizza sauce.

Now, imagine making a pizza and omitting the pizza sauce prior to making it. Then imagine trying to put the sauce on after the pizza has been baked, sliced, and even some of it served. It is a difficult but not impossible task to fix the pizza, but it would have been a lot easier to just have added the sauce from the beginning.

Here are some examples our members have experience that illustrate the impact of inaccessible technology. A substitute teacher in one county school district was told that she would not be assigned to the district's middle schools because their attendance recording system was not accessible with her screen reader.

A state employee newly hired to work at a call center for a state comptroller's office had her job offer rescinded after the State determined its tax information data-base was not accessible with assistive technology.

A Department of Defense employee was kicked out of a training program in which she had been enrolled for five years and had nearly completed when her agency determined that its testing systems for certification were no longer accessible to assistive technology users. Dozens of state employees and a number of states who use the same software application could no longer enter their time and attendance in their states' timekeeping system due to updates that broke accessibility.

Law enforcement entities have to enter information about law enforcement officers that are under investigation, which would then potentially render their testimony problematic. Prosecutors have to check those data-bases in disclose and discovery if any officers are under investigation. However, if they fail to do so, the entire case is likely to be thrown out and potential criminals are set free.

In the last few weeks, I have heard from two different blind prosecutors from different sides of the country who have had near misses in terms of disclosing this information to opposing counsel in discovery.

The reason? The system is not accessible to assistive technology. Imagine a scenario when it wasn't a near miss, but because the prosecutor didn't have effective, accessible tools, they unknowingly failed to disclose such information, which resulted in a case being thrown out and a potential violent criminal being released to commit another crime. Had the technology been accessible, this wouldn't be a concern.

These are just a handful of examples, but there are hundreds, if not thousands of others. In my written testimony, I shared some recommended actions that will improve 508 compliance across the Federal Government.

Chief among them is that the access board must be sufficiently resourced to do the job it has been tasked, and there have to be improvements in accountability and enforcement across the Federal Government. I also shared in my written testimony information about which states have laws and policies related to technology accessibility.

I shared some of the recommendations for state and local government to improve in this area. One key framework will be the ADA

Title II regulations. However, the notice of proposed rulemaking proposes seven new exceptions that are so problematic that they will erase the decades of progress in the accessibility space.

We strongly urge the Department of Justice not to adopt any of those new exceptions. We work in government, those of us who do, because we care about this country and the people who live in it.

Though our eyes don't work in the typical way, we are capable of serving the public and doing so well, provided the technology is developed with basic accessibility in mind. In a day and age where technology advances at the speed of light, we are not limited by our disabilities.

We are limited by the government that fails to include our needs in its technology infrastructure. This is not a capability problem. This is a willingness problem. Do Federal, state, and local government have the willingness to be different? Only time will tell. Thank you very much.

The CHAIRMAN. Ms. Othman, thanks so much for your testimony. Before turning to our next witness, we are joined by Senator Blumenthal and Senator Kelly as well. Mr. Doyle.

STATEMENT OF JAY DOYLE, CHIEF EXECUTIVE OFFICER, SERVICE OKLAHOMA, OKLAHOMA CITY, OKLAHOMA

Mr. DOYLE. Honorable members of the U.S. Senate Aging Committee, I am honored to testify here today to tell Service Oklahoma's story on how we are improving the accessibility government services for all Oklahomans.

Home to Four million people, the State provides vital services to citizens during some of the most important times of their lives. From obtaining essential documents like birth certificates, driver's licenses, motor vehicle registrations, and professional licenses, to facilitating employment opportunities, Oklahomans rely on efficient and responsive government services.

However, as we have witnessed, these services are often necessitate navigating a labyrinth of agency websites, offices, and phone numbers, a problem magnified during the pandemic when access to these services became more critical than ever.

Citizens found themselves waiting on the phone for hours or even camping outside agency offices overnight just to secure their spot in the line. It was clear that transformation was needed.

Service Oklahoma was created by the Oklahoma Legislature in May 2022, with a mission to ease citizens' stress in navigating and obtaining government services, while providing a great experience.

Starting with your stereotypical DMV services, Service Oklahoma started the Administration of our driver's license program in November 2022, and our motor vehicle program for the State in January 2022—or January 2023, transferring those existing functions and employees from the agencies that previously offered those services.

Today, we are responsible for seven million transactions and generate almost $1 billion in revenue for the State on an annual basis. The overarching goal of Service Oklahoma is to create a seamless, consistent experience regardless of whether you visit our website, call our customer support representatives, or come see us at one of

our strategically located locations spread across all counties of the State of Oklahoma.

We want to meet Oklahomans where they are, designing services around the citizen, making services easy to understand, available when and where they need them, and being proactive instead of reactive.

While still in our infancy, we have been able to significantly improve our services and launch various new and improved digital products for our citizens. There is one that I want to specifically highlight, which also happened to be our first product launch, the disability parking placard, which impacts almost 100,000 Oklahomans each year.

Historically, disabled Oklahomans in need of a disability parking placard were required to complete a ten-step process that often included repeated contact with their approving physician and multiple visits to the Department of Public Safety headquarters in Oklahoma City.

For Oklahomans outside of the Oklahoma City Metro area, this step would require them to travel for hours before they had the benefit of a disability parking placard. Once the customer navigated the cumbersome application process, they were left with no means to check the status of their application, while they waited on average of 45 days to finally receive the disability placard.

The process was further complicated by the fact that their applications were occasionally lost during this process. These obstacles created by the original process led to poor customer satisfaction, and in some instances, served as a complete roadblock to Oklahomans' ability to receive government services.

A multi-agency collaborative program was launched by a team now known to Service Oklahoma and the Oklahoma Department of Public Safety to reimagine this process for obtaining a disability parking placard in a more customer centric, digitally oriented, and accessible manner.

The team also worked with the Oklahoma Medical Board to engage physicians in this pilot process. The high-level strategy behind the digital disability placard was to understand existing pain points from the perspective of all stakeholders, but especially the customer, and iteratively improve each version of the online product based on surveys and interactions with disabled Oklahomans, employees who process the applications, and physicians.

The resulting disability placard product dramatically improved the experience for all stakeholders involved. Customers now have the option to apply online through an easy to find, an easy-to-use form, with no in-person visits required.

This new application to shorten wait times by almost 90 percent and eliminated 60 percent of the steps required by the original process. Customer satisfaction with the new application is high, with customers rating the process a 6.2 out of seven and applauding the ability to track the application process and ultimately receive their disability placard from the comfort of their homes. Service Oklahoma represents a profound shift in how Oklahoma's government interacts with its citizens.

By focusing on simplicity, accessibility, and efficiency, we are positioning Oklahoma as a leader in providing government services

that meet the evolving expectations of our citizens. In closing, I sincerely appreciate the opportunity to tell our story.

Service Oklahoma's journey is a testament to what can be achieved when we prioritize the citizens' needs. We are eager to collaborate, share insights, and work together to knock the virtual front door to government services for everyone. Thank you for your time. I look forward to your questions and discussion.

The CHAIRMAN. Mr. Doyle, thanks for your testimony. Next, we turn to our fourth and final witness, Mr. Lichtle—Ms. Lichtle, sorry.

STATEMENT OF ASHLEY LICHTLE, AMERICANS WITH DISABILITIES ACT COORDINATOR FOR SALT LAKE CITY, SALT LAKE CITY, UTAH

Ms. LICHTLE. Thank you. Hello, members of the Committee. My name is Ashley Lichtle. I would like to thank Chairman Casey, Ranking Member Braun, their teams, and the other members of this Committee for this opportunity.

This has been a top initiative of mine since I joined the Mayor's Office in 2021, so I am honored to be here with you all today. The rush to go virtual during the onset of the COVID–19 pandemic revealed that most functions of daily life were easily able to be digital, but more importantly, it exposed just how inaccessible much of our digital spaces are when improperly designed or designed without the user experience in mind.

The COVID–19 pandemic also revealed how vital and sometimes lifesaving it is that all people have equal access to information from their Federal, state, and local governments. Governments have utilized digital spaces to provide pertinent information as a means of engaging with the public for decades, yet still fall short in providing fully accessible digital spaces.

The ADA greatly influenced the inclusion of people with disabilities in the built environment, but there remains a large gap in digital spaces. Governmental entities want to be accessible to and inclusive of their residents, but unlike stairs or narrow walkways, inaccessible features of websites and other digital spaces are invisible to those who do not rely on them unless they have been trained to seek out and remedy these barriers to access.

Salt Lake City's current website templates are often inaccessible with little ability to adjust template features. The city is migrating to a new system that will allow for greater flexibility in fixing any accessibility issues. This migration will also allow the city to utilize APIs from other local apps to build what our residents and visitors need to navigate our digital and physical spaces more independently.

This move away from some third party app developers is vital to the engagement of people with disabilities in our city. Recently, I worked with our Information Management Services team, a low vision resident, and the city's Accessibility and Disability Commission Chair, who is a blind individual, to identify ways the City Request App was inaccessible to them.

When reviewing this with the developer, they informed us that some issues were well known to them and would not be fixed in any upcoming updates. Therefore, this app would remain inaccessible to the resident and others like him.

We can create an accessible user experience with our new website and apps through partnerships like the National Federation of the Blind of Utah and through the expertise of our city's Accessibility and Disability Commission.

Having implementation guidance from the Federal Government would further improve the design and development of these spaces. Designing digital content with all users in mind is also crucial for civic engagement. People with disabilities have been underrepresented in civic engagement efforts or entirely prevented from participation in civic engagement efforts throughout history.

Therefore, utilizing WCAG 2.1 and digital surveys, and other digital engagement content is vital for the inclusion and participation of our residents with disabilities. Our civic engagement team collaborates with me often to review accessibility before surveys are released to the public.

This team is also compiling a style guide for creating engaging and inclusive surveys. We value the contributions of, and feedback from, the disabled community in improving our city, and work to make sure our content reflects those values. Data shows, on average, people with disabilities make up roughly 25 percent of the population.

This is a significant amount of people that may not be able to perceive, interact with, or understand the digital content governments create, which can result in frustration, lack of engagement, and at the very worst, feelings of isolation.

Adopting WCAG 2.1 would be a much-needed step toward the full participation and independence of people with disabilities. It is imperative that entities understand how to comply with WCAG 2.1, so I urge the Department of Justice, U.S. Access Board, and ADA National Network to be diligent in creating technical guidance, especially plain language guides and trainings, for entities as they implement these regulations.

Thank you all for your work on this vital effort for inclusion.

The CHAIRMAN. Ms. Lichtle, thank you very much for your testimony. We will turn to our questions now. I will start with Mr. Westbrook. Chris, you shared your experiences living with disabilities and you also have worked as both a software engineer and now as an accessibility engineer.

Through both your everyday life and your professional experience, you know about barriers, and you highlighted some in your testimony that exist in modern technology. You know that when inaccessible—you know that inaccessible technology can limit independence and place a person at a personal and professional disadvantage.

Can you share with us a little more about how inaccessible Federal, state, or local websites can affect the day to day life of someone with a disability?

Mr. WESTBROOK. Sure, so, I just heard from a friend yesterday about this new—they were trying to file for unemployment, and they were stymied, I guess you could say, by this ID.me. I guess it is like a new way to verify somebody's identity due to the camera and stuff like that, and they couldn't get past it.

You know, you can imagine, you know, you have already—you know, you have lost your job, and you are trying to file for unem-

ployment, which is stressful enough, and then, you know, to have that barrier in your way is just, you know, creates additional stress and isolation, even sometimes, so, yes.

The CHAIRMAN. You had made reference in your testimony about when you were completing a form, and I don't know if you could just refer back to that, completing a form and just finding the right button and barriers like that. Can you walk through that?

Mr. WESTBROOK. Yes, so, buttons need to be coded in such a way as to be—so that it is going to—you can tell that they are actionable buttons, and if they are not coded the right way, they can just look like normal text, and sometimes even if you do think it is the right button, you know, if you hit anywhere on it or whatever using keyboard, it doesn't work because it is expecting a mouse—you know, set up a mouse for you to click on it, and sometimes, depending on how it is coded, no amount of keyboard input will make it work, and that was the case with that particular form.

The CHAIRMAN. Is it true you end up using kind of workarounds to compensate for it?

Mr. WESTBROOK. Yes. There are a few services out there. One of them is called ARRA, A-R-R-A, and that is a service that you can call and get a sighted assistant to—well, they can do anything, but they can connect to your computer in this case through remote technology and control your computer as if they were you.

You can tell them what to do and they can, you know, they can help you navigate the website, but that is a paid service, and so, you know, it is not free, so some people might not be able to afford it. You only get a certain number of minutes per month.

You know, it is really important that technology be made accessible and that these workarounds are just that, workarounds. You know, sometimes we have to start to get the job done. You know, we just have to do what we need to do, but ultimately, it is really important that technology be made accessible.

The CHAIRMAN. Yes. Well, thanks very much for that. Ms. Othman, I am going to make reference to the history of the 50th anniversary of the passage of the Rehabilitation Act amendments, as I mentioned earlier. These amendments were really groundbreaking. Among other things, created the U.S. Access Board.

The Act states in part that it requires, "access to programs and activities that are funded by Federal agencies and to Federal employment." For both the public and for Federal employees themselves, a key pathway to accessing Federal agencies and programs is through the technology that we have talked about.

The Department of Justice issued a report 10 years overdue that show that only 20 percent, just 20 percent, of Federal websites are accessible at best. I would ask you this, what do you consider the most common barrier to websites and technology accessibility at all levels of government?

Ms. OTHMAN. Thank you. That is a great question. I believe that the most common barrier to websites and any type of application related technology is knowledge, education. People don't know that they have to do it, or they don't know how to do it, and so they don't do it.

The other—on par with that is also prioritization. If we prioritize accessibility at the same level that we prioritize security, privacy, other technology related aspects, so many people with disabilities wouldn't be left behind because we—there are problems with privacy and security when you are standing at a Social Security kiosk and you have to use a security guard or you have to use a bystander and tell them Social Security number so that they can get you into the kiosk to tell the Social Security Administration that you are there for an appointment that you have pre-scheduled, or when you are standing there talking to the receptionist at the VA, sharing your medical history so that they can fill out an inaccessible form for you, and now they and everyone within earshot can hear you.

I think it is both the lack of knowledge and understanding, but also on that same level is the non-prioritization of accessibility on those same lines as security and privacy in the Federal space.

The CHAIRMAN. I think that is a good way to think about it. Ranking Member Braun.

Senator BRAUN. Thank you, Mr. Chairman. I have two questions for Mr. Doyle and one for Ms. Othman. Mr. Doyle, your Service Oklahoma is on the front lines, it seems like, in Oklahoma, on innovation.

When I came to D.C., I wanted to make sure my own offices here, especially back home, did as well as customer service in the business I ran for 37 years. When you take that customer service to a new level, I think it shows how you can do at any level something better than maybe what was done before.

Tell me how prioritizing customer service there in Oklahoma has enabled you to take it to the next level? Will it actually aid in a way to expand it further?

Mr. DOYLE. Thank you for that question. You know, for us, we put the citizen at the front of everything that we do. It is the center of our business. Our name is Service Oklahoma, because we are here to serve our citizens.

We would be doing a disservice if we didn't design our services with our citizen in mind, and so, anything that we actually build, design, change, we start with actual citizen interviews, having conversations with the person that is actually going to be using the product, trying to determine their pain points, trying to figure out their feedback on what will work and what will not work.

We also want to believe that our methodology is really iterative, and so, even after those initial interviews, that is not where our—the feedback loop starts for us, because even after we initially launch a product and even into all of our products today, at the end of every service, we actually ask the citizen for feedback, and we want feedback for how can we improve—the service we just provided or offered you, and then we actually take that to heart and actually continually try to change and improve the products that we offer.

As we continue to improve our products and better meet the needs of our citizens, you know, we are improving our first time resolution rate. We are decreasing our transaction times. We are actually making our services more efficient for the State and actually a better product for our citizens.

You know, we view feedback truly as a gift. It is the driver of everything that we do. The products and our product roadmap of what are we going to innovate or what are we going to improve next is really truly driven by customer feedback and what are the needs that we are hearing and seeing on the front lines from our citizens.

Senator BRAUN. Thank you. The second question would be involving Federal regulations. Whenever we are going after improving, or doing it right in the first place, there sometimes can be a conflict between.

Sometimes it works well together. How have the Federal regulations dovetailed with what you have been trying to accomplish in Oklahoma? Has it made it easier or harder to arrive at better results?

Mr. DOYLE. You know, we always are looking at both our Federal and state regulations. Obviously, we are in a fairly regulated, highly regulated industry just from the services that we provide on a day-to-day basis.

You know, we want to be sure that we are not violating any statutes, both federally and locally, as well as jeopardizing any potential funding, so, I think those are obviously key items that we are looking at.

You know, I would say, additionally, we are examining how can a burden of regulations or compliant requirements have on the speed to launch or the cost to actually implement a product.

I think we are definitely having those conversations and concerns as we are looking at future products, but for us, the really decisionmaking for where we go with our products and how can we actually provide a better service is really getting back about the customer. Is it going to generate a substantial benefit for our citizens either through a simpler experience or more accessibility to services?

What are our development or ongoing costs going to be when we are launching a new digitally enabled product? Because ideally that shouldn't cost us any more than it was previously to offer that service.

We really want to be focused on being good stewards of taxpayer funds, and then finally, what is the impact on the citizens? Is it going to impact a high number of citizens or have a significant impact to their lives are really the real drivers we are looking at when deciding what services to kind of bring online.

Senator BRAUN. Thank you. Ms. Othman, last August, I joined Chairman Casey in asking the GAO to study the Federal Government's compliance with Section 508. This study will examine how the Federal Government complies with laws requiring accessible technology. In your opinion, to what extent does the Federal Government comply with laws requiring accessible technology?

Ms. OTHMAN. Thank you, Senator, for the question. In my opinion, and based on my experience with my constituents, I can tell you that I believe the Federal Government is largely and substantially noncompliant with Section 508 across the board.

That this is a systemic issue, and Federal agencies that do comply are rare and far between. I can also tell you, Senator, that the number of complaints that are cataloged and processed is both sig-

nificantly less than the number of issues that actually exist, and also based on under-reporting to Congress and other entities.

Most Federal agencies don't have a structure for 508 complaints processing, so we don't actually know how bad it is. Added to that, no employee wants to sue their employer or file a complaint. Most employees will try to find workarounds.

They will spend lots of time doing this. Most individuals with disabilities solve 100 problems before they even show up to work in the morning, and so, if these were simple problems in terms of inaccessibility, they would solve them themselves.

No employee wants to make themselves vulnerable by going to their supervisor or their agency to say, I am struggling to do my job, period, let alone because of something directly related to their disability, meaning the inaccessibility.

While I absolutely applaud and support the GAO study, I am also deeply concerned because I do not believe that Federal agencies are properly keeping records or that there is an accountability or enforcement mechanism in place to accurately capture the number and volume of inaccessibility, or the individuals that that impacts.

Senator BRAUN. That is disappointing to hear, and I think it ought to give us pause before we try to maybe do more through the Federal Government when it seems to be clear that it is not complying with some of the same—some of the things it has put out there.

I think it also means that we have got to make sure that states, especially the ones that are wanting to be innovative, are out there to where they have full flexibility to probably do a better job.

Sadly, we have completed in my own office as a freshman Senate office, 10,000 cases back home across the array of Federal entanglements, and that is an amazing number in a little under five years.

I just think hearings like this expose in a way the truth of what is being done, what is not being done, practice what you preach, and please make sure that we keep the flexibility for states to do what appears to be a better job with a report like that. I yield back.

The CHAIRMAN. Thank you, Ranking Member Braun. We have to take a break in the hearing now. This hearing of the Special Committee on Aging will recess so that members can attend an all Senators session to hear from Ukrainian President Zelensky. The Committee will reconvene in this room after the session concludes at approximately 11:00 a.m. This Committee stands in recess.

[Recess.]

The CHAIRMAN. The hearing will come to order again. We are grateful for your patience when we had to take a break to listen to President Zelensky. It was an honor to be able to do that. I know we are starting late, so I am going to go right to two of our Senators who are here waiting patiently. Senator Scott of Florida.

Senator Rick SCOTT. I thank the chairman for hosting this and for his commitment to trying to figure out how we continue to help people that need help in our country. In Florida, we have heard from veterans that agencies continue to make their processes more—as they make their processes more digital, it has become increasingly difficult for disabled veterans to continue to receive the care and services they are accustomed to.

For example, the VA Beneficiary Travel Service Self Service System has been a physical form for years, VA form 103542, and as the VA made the program digital in July 2020, we have veterans who are being told they cannot file this form in person yet are unable to use the online BTSSS process portal for a variety of reasons, including disabilities that inhibit their ability to use the online system, and they are suffering from not receiving their benefits in a timely manner.

Clearly, I think all of us would agree, that has got to get fixed. Our nation's veterans deserve the highest quality service we can provide. I am proud to join Chairman Casey on a commonsense bill, the Veterans Accessibility Act, to ensure that the VA and all of its services are accessible for individuals with disabilities.

I want to thank the chair for doing that. Giving veterans and people with disabilities a voice to improve accessibility at the VA is at the core of this bill and central to ensuring that no one is left behind. I have just got a few questions.

What are you all doing, and what should we do to improve accessibility to—or improve accessibility does not negatively impact user experience and participation of people with disabilities, older adults, and veterans in government services. There is no order. Whoever feels comfortable going first. Jay looks like you are going to go first.

Mr. DOYLE. Yes. Senator Scott, thank you for the question and the comments, so, Service Oklahoma, we are clearly in our infancy as we have been offering services to the citizens of Oklahoma for a little less than a year now.

I think when we view a specific population group like veterans, for example, I think we look at it from two different components. I think No. 1, we look at it from the individual products or services we provide, and how can we make sure that those are accessible and meeting the needs of that population.

Just to give an example, we inherited a online renewal for a driver's license, and as we decided to work through redesigning that product, we found a couple of things. Number one, we wanted to make sure that we made it more accessible and simplified for all citizens, so we decrease the number of steps from 31 to 14.

I think the second thing that was really important to us is the previous process, if you were 100 percent disabled veteran in the State of Oklahoma, you actually received your driver's license free of charge, no charge to that citizen.

Our online product actually didn't have a spot for you to check a box or to be eligible—to show that you are eligible to get that transaction for free, so, we were requiring those veterans to actually pay for the transaction, pay for the driver's license, and then they had to depend on our finance group to go through the process to go back and refund that dollars to them whenever they actually felt like they could get to it, so, obviously——

Senator Rick SCOTT. This was rebates—they were going to send to you, right?

Mr. DOYLE. Exactly. One of those mail in rebates——

Senator Rick SCOTT. That you never get.

Mr. DOYLE. Exactly, so, we really wanted to be sure that we added that eligibility so that they could have that digital product

at the service level that was promised to them of actually getting that free of charge.

We have made that improvement as we redesign the product, and so that is an example at the individual product level. I think from a population as a whole perspective, in the State of Oklahoma, there is a variety of different organizations that offer benefits or services to veterans specifically, and obviously other user groups.

In our mid to long term plans, what we really want to do is centralize those locations of those services so that a veteran doesn't have to sit there and try to guess which agency provides which benefits or which services, and also have an idea of what services are actually available to them.

We want to put that in a centralized location, really design it around what their tendencies would be as an actual user or as a customer, and also based on their actual persona, so, what actually might be eligible to 100 percent disabled veteran as an example?

Really we want to be sure that we are trying to alleviate those frustrations, increase that experience, but also make it a lot more accessible to those veterans, and all citizens in Oklahoma, so they have an idea of what services are available and how to actually achieve those services.

Senator Rick SCOTT. Okay. Anybody else? Ms. Othman, would you like to say thing?

Ms. OTHMAN. Thank you, Senator, for the question. You know, I can speak about individuals who are—veterans who are blind, and in terms of the, you know, many of them have lost their sight in service to our country.

When they come back, though, there is such a digital divide because they have—prior to losing their vision, they had relied on it, and if they did have access to technology or they used technology, it was very visual.

First and foremost, I think one recommendation for government is to meet individuals where they are and provide a multifaceted approach. We certainly do not support the elimination of paper-based applications or the elimination of in-person submission because some people are always going to need that.

The technology, you know, you don't wake up at a military, VA hospital and all of a sudden you are capable of whatever your limitation is, just jumping right past it to be able to do TikTok and all of the other things that people have done, and so, we need to make sure that the applications and access systems are multifaceted.

There are, though, some advancements with technology that we also, I believe, need to focus on. There are things like, you know, think of your smart speaker. There are lots of things that you can do with it now by voice command that you couldn't before and that veterans could benefit from those sorts of things.

Automated phone services. I think, you know, most importantly, it is to have multiple avenues of accessing our government products and services because each individual has a disability that is going to differ from the person next to them, and so we want to make sure that we are not going 100 percent digital and eliminating the manual process that some individuals need, or going 100 percent

manual where there is so many other people with disabilities who cannot access and lose access to systems and services.

Senator Rick SCOTT. Thank you. I just, I want—I know my time is up. I just want to thank the chair for hosting this, and I want to thank him for the quality of the individuals that he has brought here to give us information.

The CHAIRMAN. Senator Scott, thanks very much for your questions, and thanks for working with me on the Veterans Accessibility Act, and for being here today. Before introducing my colleague from Pennsylvania, I wanted to note for the record something I mentioned in my opening, but I didn't list the co-sponsors.

There is another bill, the Federal Agency Accessibility Compliance Act, and that is co-sponsored—I am a sponsor with the following co-sponsors, Senators Fetterman, Blumenthal, Gillibrand, Duckworth, and Sanders, so, I will now turn next to Senator Fetterman.

Senator FETTERMAN. Thank you, Mr. Chairman, and it is an honor to have you as my mentor, and to welcome—thank you, all of you here, and thank you for coming, and for me, it has been a very personal issue with me, and I am going to show this, and then I am going to describe this to others.

This is my iPhone, and this is a transcription service that allows me to fully participate in this meeting, and conversations with my children, and interacting with my staff. I had a stroke about 18 months ago, you know, and I have lost my ability to fully process language, and I like to think I was an empathetic person, truly, but until that happened, it—I have raised to a whole different kind of level as well, and it is profound to know, though, that I never really considered that without this kind of technology, I couldn't watch television, and I can't imagine if I didn't have this kind of a bridge to allow me to communicate with—with other people effectively, and, you know, because I live in a political environment, I was ridiculed and made fun of because I wasn't able to process things sometimes or say things—things, so. I am so sorry that I am sure many of you had to go through this kind of thing. You know, I was lucky that I was—I was lucky enough to go through my life, the vast majority of that, without this kind of disability that I have.

Again, I can't imagine, and how the challenges, and I admire, you know, everyone that has to kind of live with these kinds of struggles and prevail over them, and the questions that I have is really more of an open ended kind of question to everyone on the panel, you know.

You know, how can we become more empathetic, more responsive, and more effective Senators to provide the kind of support and services that you, anyone in these communities, deserve to be a citizen here in our nation? Mr. Westbrook.

Mr. WESTBROOK. Yes. I think it just takes political will and, you know, the will to become accessible—making it a priority, and just, you know, deciding that it is going to be a priority, like Ronza was saying earlier, and on the same level of security and privacy and all that kind of stuff.

Accessibility just needs to be another part of doing business, as I mentioned in my testimony this morning. You know, we wouldn't think about building a building without putting in a ramp, you

know, to get into the building now, but now, we need to think about building websites and digital technologies to make them more accessible.

Senator FETTERMAN. Thank you.

Ms. OTHMAN. May I? Thank you for the wonderful question, Senator. First of all, I would say hire a person with a disability on your staff. Bring somebody in who is going to interact with you, because as they spend time—not you, personally, you, so thank you very much for your vulnerability and authenticity there.

In general, to the Members of Congress and lawmaking bodies across the country, hire people with disabilities so that they can share their lived experience and so you can observe the challenges and struggles that they are experiencing.

If, for example, they have a deliverable that they are responsible for bringing to you, and the reason why they are not able to complete that deliverable is because there was some technology upgrade, or a patch, or a security update that broke the accessibility of the whatever platform they were using, and now they are struggling to provide it to you, there is nothing wrong with how they—their ability to deliver on what you asked them to do.

The obstacle is the technology broke or is broken, and so, becoming more empathetic, I think, requires exposing yourself, and yourselves as a body and individuals, to individuals who are experiencing those challenges and then not looking away, and then listening to the community tell you how to solve the problem, listening to those individuals.

The census says that 25 percent of the United States population has a disability. That number is growing. It is continuing to grow, and so, think about that. If in your family, there is four of you, one of you is likely to have a disability right now, and probably close to two of you will in the next 15 to 20 years, and so, you know, listen, observe, and experience, and because we are humans, we are going to learn from the people around us. We are going to watch it in the interaction with people we love, or people we trust, or people we respect, and that is going to make a tremendous difference.

Senator FETTERMAN. Mr. Chairman, may I request an additional—please, Mr. Doyle, please continue.

Mr. DOYLE. Senator, thank you for the question. In an effort not to repeat some of what my peers at the table have said, I think—for us, I think it is, especially when it comes to technology, is technology is always evolving, and so, I think whatever solutions we have in place today or whatever we are talking about today is going to be very different several years from now.

I think having an approach of continuing getting feedback, continually listening to those with disabilities, and how can we make sure that we are offering accessibility of all services as technology continues to evolve, I think is key.

I think we take that approach every single day, is that our products today are going to be very different than our products 12 months from now, 18 months from now, etcetera, and so, I think having that mindset that whatever we are talking about today needs to have that continued dialog and have that can be an ongo-

ing conversation, because it is especially with technology, this is going to be—look very, very different in the years to come.

Ms. LICHTLE. Thank you, Senator, for your statement and your question. I 100 percent agree with Ronza. It is very important that we listen to and engage with people with disabilities. As one of my close friends and proud self-advocate says, when you meet one person with a disability, you have met one person with a disability.

Engaging a wide array of people with disabilities, and people with the same disability, they are all going to have various lived experiences that can inform and shape how we create policy and accessible technologies, and that is very important for us moving forward. Thank you.

Senator FETTERMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Fetterman, and I want to commend Senator Fetterman's statement about his own personal experience, just like I commend and salute the personal testimony of our witnesses.

Nothing, nothing, is more powerful than personal testimony when it comes to matching someone's lived experience with public policy changes that we seek to enact into law, and sometimes that—most of the time that comes from witnesses, but sometimes it comes from a courageous Senator who is willing to talk about the challenges he faces and what he is doing every day, so we are grateful for his personal witness here today.

We obviously have more questions but because of our interlude, as grave as that moment was to be with President Zelensky, I know that it didn't allow us to have more questions, but we can follow-up with our witnesses to get more information, but each of you have helped us in this hearing today when we learned so much about the importance of accessible technology for people with disabilities as they seek to access government services and information.

This is a very timely issue. Every level of government now uses technology, as I made reference to earlier, the front door for programs and benefits. Accessible government websites, apps, and other technology are critical for people with disabilities who need access, access, to veterans benefits, or to read a bus schedule, or simply to pay their taxes.

America's population is aging rapidly, and older adults are more likely to have a disability. When Federal, state, and local technology is not accessible, that digital front door is locked. The testimony of today's witnesses highlighted the importance of government efforts to ensure that accessibility.

Mr. Westbrook highlighted the personal impact of an inaccessible government website. Ms. Othman discussed examples of inaccessible technology at every level of government. Mr. Doyle discussed his State's innovations in accessible government technology.

Ms. Lichtle discussed her city's efforts to make their technology accessible. Through the efforts of the Biden Administration and the bills that I and my colleagues—I made reference to earlier, Senator Scott, Senator Fetterman, and others who have co-sponsored these bills, all of these proposals will help us make all levels of government technology accessible to people with disabilities.

I also ask unanimous consent to enter a document into the record, the VA's most recent web accessibility report from August of this year, August 2023. This report details steps the VA has taken to improve accessibility of its technology in response to bipartisan congressional oversight, so, we will add that document to the hearing record.

The CHAIRMAN. I want to make reference to additional questions for Senators. If any Senator has additional questions for the witnesses or statements to be added, the hearing record will be kept open for seven days until next Thursday, September the 28th.

Again, I want to thank our witnesses again and those who are appearing today in the hearing room behind our witnesses, for your time today as well, so, thanks for participating, and this concludes today's hearing.

[Whereupon, at 11:40 a.m., the hearing was adjourned.]

APPENDIX

Prepared Witness Statements

United States Senate
Special Committee on Aging

Unlocking the Virtual Front Door:
Ensuring Accessible Government Technology for People with Disabilities,
Older Adults, and Veterans
September 21, 2023

Testimony of Christopher (Chris) Westbrook
Williamsport, Pennsylvania

Good morning, Chairman Casey, Ranking Member Braun, and Members of the Senate Special Committee on Aging.

I am a blind Pennsylvanian serving as the Secretary for the Board of Directors of the Roads to Freedom Center for Independent Living of North Central PA. I also am President of the National Federation of the Blind of Pennsylvania Deaf-Blind Division. I also work in the field of web accessibility as an accessibility engineer for a company called Allyant.

So, I deal with accessibility issues on a daily basis, both personally and professionally.

While the Covid pandemic has increased reliance on technology for everyone, it has also amplified the need to make websites and other technologies accessible to all people due to its increased importance. Government websites, especially, must be accessible so that all constituents at all levels of government have access to programs, services, and information.

For example, imagine not being able to file your local taxes online. This is the situation I faced simply because I have a disability. When I went to the county website to pay my taxes on-line, I couldn't because I couldn't find the button used to submit the form. This ultimately forced me to seek sighted assistance to perform a task that everyone else can perform independently. Being forced to use sighted assistance means that I have to reveal private and sensitive information to someone else, something a sighted person would never have to do.

I have also tried to use our city's website, but I don't think I am getting all of the information as the links all announce there is a submenu that I cannot access. This could result in missing key local services.

There are also examples of non-government websites that are not accessible and create everyday problems for disabled people. I have had to switch banks because the app I relied upon to perform transactions was updated and made inaccessible. This resulted in much lost time and productivity as I had to move money from one institution to the other, set up direct deposits, and set up bill payments. Updating an app and not making it accessible in this day and age should be completely unacceptable.

There are many other activities, such as shopping, transportation, and tickets purchasing, when technology accessibility is important. People with disabilities need to be able to perform the same tasks as our nondisabled peers when it comes to work, recreation, and community living. But how do we get there?

To make government websites accessible, we must embrace standards such as the Web Content Accessibility Guidelines (WCAG). WCAG is an industry standard. Having WCAG as the standard for government websites will provide a clear standard for those responsible for creating and overseeing websites and technology. We must also recognize that accessibility is not a one and done deal but is always changing due to advances in technology and changes in website software.

To ensure that government websites and technology are accessible, people with disabilities need to be involved in the development of the websites and the monitoring of the websites to ensure they remain accessible. One strategy for ensuring accessibility is to have

people with disabilities, in conjunction with nondisabled advocates and peers, test and monitor websites and technology together. At Allyant, we perform what is called "paired auditing" where a native screen reader user is paired with a sighted auditor. This helps ensure that the disabled are getting an equitable experience to non-disabled users and ensures possible barriers to accessibility are identified for all types of disabilities, not just blind people.

Because of my disabilities and my job, I come across many issues related to accessibility and inaccessibility of website and technology. Some of the issues I see on a daily basis include unlabeled form fields which can leave blind people unsure what information is being asked for, unlabeled images which lead blind people to be unsure what is on a webpage, and buttons that are coded in such a way that they do not announce that they are actionable, thus leaving disabled people unaware of what function the button performs.

Local, state, and federal governments need regulations to ensure accessibility and that keep up with the changing pace of technology. We also need to ensure that disabled people are involved in the development of those regulations, the monitoring and oversight, the purchasing of software and other technology—really every step of the process of using technology. And we also need to make sure those regulations are enforced.

For people like me, and really for all Americans, accessibility needs to become just another part of doing business. Accessibility must be considered from the design phase, all the way through the process of implementing and maintaining a website. That is how we make government technology and all technology accessible.

Again, thank you for your time and I hope my testimony and expertise can move us closer to a world that is accessible to all.

United States Senate Special Committee on Aging
Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans
September 21, 2023

Testimony of Ronza Othman, President, National Association of Blind Government Employees; President, National Federation of the Blind of Maryland

I would like to thank Chairperson Casey, Ranking Member Braun, and all of the other members of the Special Committee on Aging for this opportunity to offer testimony on accessible technology in the Federal, state, and local government. My name is Ronza Othman, and by day I'm an employee of an executive-branch Federal agency, where I am an attorney and manage equal employment opportunity and civil rights programs. However, I'm testifying before you in my personal capacity, as in my spare time I serve as a leader in the National Federation of the Blind, the transformative membership and advocacy organization of the nation's blind. My roles include serving as the President of the National Association of Blind Government Employees (NABGE), where I engage with current, retired, and prospective employees of Federal, state, local, and pseudo-government agencies across the nation. I'm also the President of the National Federation of the Blind of Maryland (NFBMD), representing blind and low-vision Marylanders who work for government but who also, like most Americans, engage with local and state government for a variety of reasons. Both NABGE and NFBMD are affiliates of the National Federation of the Blind.

When I use the word "blind," I am referring to the millions of Americans who are legally blind. Some have no usable vision, but most have some usable vision; there is a broad spectrum of blindness, but I use the word "blind" inclusively of the entire spectrum.

The National Federation of the Blind recognizes that access to information and communication technology (ICT), including hardware, software, web and mobile applications, and other platforms and information, is a critical civil right for the blind and other Americans with disabilities. Moreover, the tools and strategies that are used to provide access to information and services to people with disabilities also have a mutually beneficial impact on the quality of life for all Americans, including the ever-growing population of older Americans.

Technology has been a true equalizer for blind and low-vision Americans, as well as many others with disabilities. So much of the information we receive on a daily basis is communicated visually, and the proliferation of technology has enabled our community to not only gain access to that information at the same time as our non-disabled counterparts, but technology advancements enable us to engage with that information and act on it. Most of us carry a phone in our pocket, many of us have a computer at home, and many of us interact with other technology devices like smart speakers, home security systems, home appliances, medical devices, and so much more. Today, I can use the phone in my pocket to operate my Ring Doorbell, operate my vacuum, set

my thermostat, reheat my leftovers, and half a dozen other tasks in my house when I'm not even at home. These are all mainstream technologies, not adaptations made for people with disabilities. In essence, when a manufacturer or developer chooses to build a product and includes accessibility at the beginning, virtually everyone can use it.

But when it comes to engaging with our government, these technologies are woefully behind. Often, government-procured, maintained, or developed ICT is not accessible to those of us with a variety of disabilities, including the blind, low vision, and print disabled. Technologies and systems that Federal, state, and local governments operate to engage with the public and provide services that include: agency service listings, data, and contact information; benefits and services portals and forms; utility and tax payment systems; parking and other citation systems; court record systems; and thousands of other services. Individuals with disabilities need to access these systems just like other Americans do.

Many of us with disabilities use assistive technology such as screen readers that audibly read what is visually on the screen. Some use magnification software that enlarges what is on the screen or enhances color contrast so it is easier to read. Others use voice dictation software that allows the individual to verbally direct the technology. Many assistive technology users cannot use a mouse to control technology, and instead use keyboard commands. Many cannot independently operate dynamic touch screens – think of a touch screen that has the "OK" or "Submit" button in different places depending on what screen you are on. In all cases, there is no reason the individual couldn't operate the technology except that it didn't incorporate accessibility principles at the start. As a result, we find ourselves at the mercy of others to help us access these technology platforms.

For example, why should a Social Security beneficiary with a disability have to give up their right to privacy by having to tell a security guard or other bystander their social security number to check in for an appointment when anyone else can independently check in? Why does a blind veteran have to share their health information with a staff member—and anyone else in earshot—to complete intake paperwork at a VA facility when no one else has to suffer this indignity? Why does a blind or low-vision college student have to have a friend or colleague tell them their grade on an assignment at a state college or university when others can fail or pass in private? Why is it that people with disabilities have to give up their privacy to engage with their government when their non-disabled counterparts get to engage with their government with dignity and respect? The answer is simple: Government isn't doing enough to make their systems, technology, and services accessible to individuals with disabilities.

Across the nation, the disability community experienced obstacles when attempting to obtain information and resources during the COVID-19 public health emergency. COVID-19 transmission data was posted on government websites, but, more often than not, it was inaccessible to assistive technology. In the early months of the pandemic and before at-home tests were available, the public relied on the government to communicate, and often to schedule, COVID-19 tests. More often than not, the government either directly posted inaccessible testing information or linked to inaccessible testing information third parties operated. The same thing happened when COVID-19 vaccines became available as well. This was not isolated to one single government entity—it was by and large the norm across the Federal government, for many state

health department websites, and for many local jurisdiction websites. Though this information was aimed at the public, it affected the employment space in significant ways because many employers required tests and/or vaccines.

It is neither difficult nor costly to make electronic information and communication technology accessible for individuals with disabilities. If accessibility is baked into the system at the development stage, it's simply coding in a way that ensures information is tagged properly and navigable by assistive technology. Most coding is very simple and easy, and it doesn't alter the visual appearance of the platform or entity. For example, ensuring proper tags and labels on website buttons requires a short line of script. Ensuring that keyboard commands work in the same way a mouse click does is usually very simple and straightforward. And yet, those of us with disabilities experience technology accessibility barriers every day for routine tasks.

Imagine making a pizza and adding the pizza sauce. Now imagine making a pizza and omitting the pizza sauce prior to baking it. Then, imagine trying to put the sauce on after the pizza has been baked, sliced, and some of it served. It's a difficult but not an impossible task to "fix" the pizza, but it'd have been a lot easier to have just added the sauce from the beginning.

In addition, some systems that are supposedly accessible require a significantly higher level of effort and more time to complete the task if the operator is using assistive technology. For example, a commonly used cross-agency Federal database requires three mouse clicks to conduct a search. However, if using keyboard commands with assistive technology, there were over forty keystrokes to get to the same results page. While it took four to five seconds to run the search using the mouse, it took four to five minutes to run that same search with keyboard commands. There is no innate difficulty or a higher level of effort to use a keyboard instead of a mouse unless the developers create that difficulty and higher level of effort when building the platform.

For those of us who work for Federal, state, and local government, the problem of technology inaccessibility is compounded by the fact that inaccessible technology is everywhere, but we are at its mercy to do our jobs. If we don't do our jobs well, then we don't keep those jobs. If we don't keep those jobs, then we're out on the street trying to find new jobs and dependent on government services and benefits we can't access due to the same inaccessibility issues we had when we were working. It's a vicious cycle. More than 50 percent of Americans with disabilities are unemployed or under employed, and more than 70 percent of Americans who are blind or low vision are unemployed or under employed. The CDC says that 25 percent of the population of the United States has a disability, and of those, the United States Census Bureau reports that 7.5 million have a visual disability. Those are a lot of Americans who aren't working, and many of them are caught up in this vicious cycle.

In the last few months alone, a number of our members have reported that they've encountered inaccessible technology in their jobs in Federal, state, and local government. For example, a substitute teacher in one county school district was told that she could no longer be assigned to the district's middle schools because their attendance reporting system was no longer accessible with her screen reader. A state employee newly hired to work at a call center for a state comptroller's office had her job offer rescinded after the state determined its tax information

database was not accessible with a screen reader. A Federal employee was not able to renew her contracting management certification because the training platform the agency—and most of the Federal Government uses—is not compatible with assistive technology. A Department of Defense employee was kicked out of a training program in which she had been enrolled for five years, and nearly completed, when her agency determined that its testing systems were not accessible to assistive technology users. Dozens of state employees in a number of states could no longer enter their time and attendance in their states' timekeeping systems due to updates that broke accessibility. These are just a handful of examples, but there are hundreds, if not thousands, of others.

One other particular situation sticks out in my mind due to the implications to the safety of our communities that the lack of accessibility has created. Law enforcement entities use certain databases across the country to enter information about law enforcement officers that are under investigation, which would render their testimony potentially problematic. Prosecutors have to check those databases and disclose in discovery that any officers are under investigation. However, if they fail to do so, the entire case is likely to be thrown out, and potential criminals are set free. In the last few weeks, I've heard from two different blind prosecutors, from different sides of the country, who have had near-misses in terms of disclosing this information to opposing counsel in discovery. The reason: the system is not accessible to assistive technology. Imagine a scenario when it wasn't a near miss, and because the prosecutor did not have effective and accessible tools, they unknowingly failed to disclose such important information, which then resulted in a case being thrown out and a potentially violent criminal being released to commit another crime. Had the technology been accessible, this wouldn't be a concern.

As a hiring manager, I enjoy when I can hire individuals with disabilities, not simply because I am one myself. People with disabilities solve a hundred problems even before they start their workday, and so my experience is that they tend to think more critically, be more creative, and work harder. When they encounter inaccessible technology, they work to find creative solutions and workarounds. In my experience, and having talked with thousands of individuals with disabilities in the workforce, I can tell you that the vast majority of individuals with disabilities under-report their experience with inaccessible technology; they don't want to appear vulnerable or incapable to their bosses, and so when they raise the alarm, it's as a last resort after they've tried unsuccessfully, usually for quite some time and with significant effort, to fix the issue or work around it themselves. And thus, the challenges we know about, I suspect, are just the tip of the iceberg.

Section 508 of the Rehabilitation Act has, for decades, set a minimum standard for technology accessibility at the Federal level. The investigation this Committee conducted, and the resultant report, demonstrates how unsuccessful Federal agencies have been at self-managing, self-enforcing, and self-implementing Section 508. The Department of Justice's Report from earlier this year on Federal website compliance with Section 508 also demonstrates the utter failure of the United States Government to fulfill its promise to ensure that Federal information and communication technology will be equally accessible to people with disabilities as it is to their non-disabled counterparts.

Nonetheless, much of the raw material is there in Section 508. The application of the Web Content and Accessibility Guidelines (WCAG) 2.1 standards—in fact adopting a single web content accessibility standard—means that those governed by Section 508 all operate from the same playbook. The recommendations of this committee in its report from last winter, if implemented, will improve accountability to the benefit of employees and the public alike. But the United States Access Board is insufficiently staffed to do the work that needs to be done. There is no agency with the power to enforce Section 508, and there are virtually no consequences for agencies that violate it. The General Services Administration (GSA) is supposed to regulate procurement and acquisition, and the Federal government is supposed to buy accessible, but there are no consequences when it doesn't. To add insult to injury, GSA actually claims—in public meetings of the Access Board and other public appearances—that it is doing a good job leading in the 508 compliance space when any disabled employee encountering inaccessible technology in the Federal space will tell you the exact opposite. And so, we find ourselves in that vicious cycle I mentioned earlier that harkens back to the unemployment rates upwards of 50 and 70 percent.

In terms of state and local governments, again, the raw material is there for some of the more thoughtful and forward-thinking jurisdictions. For example, the Maryland General Assembly passed two laws in recent years—one applicable to the Executive Branch[1] and the other to all public school districts[2]—requiring the procurement of only accessible technology and establishing a technology standard that is modeled after the Section 508 standards, implementing a one-year remediation period when procured technology is not accessible, and implementing a monetary penalty for those vendors who fail to cure by the deadline. Though these laws are fairly new, we've experienced some success as a result, for example when the Maryland Department of Transportation rescinded, revised, and reposted a solicitation for new kiosks for the State Motor Vehicle Administration.

The State of Colorado adopted a law that requires the development and use of nonvisual access standards that are applicable to all state procurement, use, and development of technology.[3] The State of California adopted a similar law, which also requires any State contractor to address complaints of non-compliance.[4] Other states with laws that address the development, maintenance, procurement, and/or use of information and communication technology include: Alabama; Arizona; Connecticut; Illinois; Indiana; Kansas; Louisiana; Massachusetts; Minnesota; Missouri; New York; Oklahoma; and Virginia.[5]

However, there is no uniform approach among these laws. Some of them apply to local government entities within a state, and most do not. Some apply to what the government procures, and some laws only apply to what the government develops itself. Some laws apply to colleges and universities, some apply to K-12 institutions, and some apply to neither. Some apply to the Executive Branch of the state, and some apply to all branches of government. Some follow the 508 minimum standard, some direct the state Chief Information Officer or someone else to develop a standard, and some specify a particular version of WCAG. Because there is no uniform

---

[1] MD. State Finance and Procurement Code § 3A-311 (2022)
[2] MD. Education Code Ann. § 7-910 (2021)
[3] CO Code § 24-85-103 (2022)
[4] CA Govt Code § 7405 (2022)
[5] See: https://www.section508.gov/manage/laws-and-policies/state/

technology standard, no uniform scope, and no uniform accountability or enforcement standard, regulations are necessary for proper implementation of Title II of the Americans with Disabilities Act (ADA), which should set those minimum standards.

In August of 2023, after a delay of more than a decade, the Department of Justice finally released a Notice of Proposed Rule Making for regulations on Title II of the ADA pertaining to websites and mobile apps. This rulemaking addresses the requirement that state and local governments must make technology, mobile applications, and digital experiences related to their programs, services, and activities accessible to individuals with disabilities. In the Arabic culture, we have an expression, and it translates to "It's like fasting for a long time and breaking your fast on a raw, spoiled onion." Devastatingly, it appears DOJ is poised to implement regulations that add seven unnecessary and frankly insulting exceptions to the requirement that state and local government entities make their technologies accessible. Previously, there were two exceptions—undue burden and fundamental alteration—and they are sufficient to ensure that the ADA does not create an impossible, or even a difficult, standard for those to whom it applies. These seven new exceptions include:

- archived content (such as minutes of public meetings that are at the heart of civic engagement);
- pre-existing conventional electronic documents (like water quality reports, crime statistics, education scorecards, and other information posted in pdf, Word, excel, or similar platforms that provide vital information about a community);
- content posted by third parties on a public entity's website (such as public comments, reviews and government contractor deliverables);
- third-party web content linked from a public entity's website (such as COVID-19 testing and vaccine locations, government contractor-produced materials and information, and anything the Government outsources to a third-party);
- course content on a public entity's password-protected or otherwise secured website for admitted students enrolled in a specific course offered by a public postsecondary institution (literally any course content using a learning management system such as Canvas or Blackboard which is basically the norm, shutting disabled students out of post-secondary education);
- class or course content on a public entity's password-protected or otherwise secured website for students enrolled, or parents of students enrolled, in a specific class or course at a public elementary or secondary school (literally any course content using a learning management system such as Canvas or Blackboard which is basically the norm, shutting disabled students and their families out of elementary and secondary education); and
- conventional electronic documents that are about a specific individual, their property, or their account and that are password-protected or otherwise secured (such as property tax bills, vital records, and court documents).

These exceptions are problematic in so many ways, not the least of which is that they undercut decades of work disability advocates have done to improve access to information, and that these exceptions will have the effect of shutting students out of their own education when education is the strongest tool in the arsenal of an individual with disability given the unemployment and under-employment crisis in America for our population. These exceptions will set not only employees

with disabilities back into the technology stone age, but will also force those who are engaging with government to return to a time we thought we'd left behind.

I believe that Federal, state, and local governments can and must do better. In the Federal space, adopting the recommendations from this committee's report will make a significant difference. In addition, I am suggesting some additional actions that will help solve this problem.

- Congress should strengthen Section 508 by implementing a uniform and centralized complaint process administered by a single Federal agency such as the Access Board similar to that operated by the United States Equal Employment Opportunity Commission for Section 501 of the Rehabilitation Act.
- The Department of Justice must receive and publish data and statistics annually on accessibility for not only websites but all Federal ICT.
- GSA should implement a uniform procurement process for all Federal agencies that requires 508 compliance testing prior to installation on agency systems and removes those procured technologies from agency enterprises if they are found to be non-compliant or become non-compliant.
- Congress should appropriately and sufficiently resource the Access Board in terms of staffing and empower it to hold Federal agencies accountable.
- Congress should request that all Federal agencies report to Congress on which ICT have received 508 exceptions, which exceptions were applied, the date of the expiration of the exceptions, and the plan for removing the ICT should the ICT not be 508 compliant at the expiration of the exceptions.
- All Senior Executives should have a critical element in their performance plans that includes 508 compliance metrics.
- Federal agencies should apply the same heightened scrutiny for Section 508 compliance that they apply to IT security compliance.
- Congress should withhold funding to those Federal agencies who fail to meet 508 compliance standards.

In terms of applicability to state and local government entities, I suggest the following:

- DOJ should not implement the seven new exceptions in its final ADA Title II regulations.
- State CIOs should come together to develop a model policy that follows the Section 508 technology standards and adopts the current WCAG standard, and these standards should be applicable to all local jurisdictions as well.
- State legislatures should enact laws that require accessibility, apply the same standard as the Federal government, and impose monetary penalties on entities that willfully fail to comply with accessibility standards when selling to government or fail to cure in a timely manner.

Employers—Federal, state, and local—should ensure that their systems, software, hardware, and other ICT is accessible to those with disabilities when they build, develop, or procure it. The pool of individuals with disabilities who are seeking employment is large, those individuals in that pool are capable of doing good work if they have the tools they need, and those individuals will strengthen the workforce.

I am a blind government employee. The people who are members of the organizations I lead are blind, low-vision, and otherwise disabled individuals. We work in government because we care about this country and the people who live in it. Though our eyes don't work in the typical way, we are capable of serving the public and doing so well—provided the technology is built, procured, maintained, and developed with non-visual and other basic accessibility in mind. We are not limited by our disabilities—we are limited by a government that fails to include our needs in its technology infrastructure in a day and age where technology advances at the speed of light. This is not a capability problem—this is a willingness problem. Does Federal, state, and local government have the willingness to be different? Time will tell!

Testimony of Jay Doyle
Chief Executive Officer, Service Oklahoma
Date: September 21, 2023
Location: SD-106

Honorable Members of the U.S. Senate Aging Committee,

I am honored to testify today at this hearing to tell Service Oklahoma's story on how we are improving the accessibility of government services for all Oklahomans.

Home to four million Oklahomans, the state provides vital services to citizens during some of the most important moments in their lives. From obtaining essential documents like birth certificates, driver licenses, vehicle registrations, and professional licenses to facilitating employment opportunities, Oklahomans rely on efficient and responsive government services. However, as we have witnessed, these services often necessitate navigating a labyrinth of agency websites, offices, and phone numbers, a problem magnified during the pandemic when access to these services became more critical than ever. Citizens found themselves waiting on the phone for hours or even camping overnight outside agency offices just to secure their spot in line.

It was clear that a transformation was needed. Service Oklahoma was created by the Oklahoma legislature in May 2022 with a mission to ease citizens' stress in navigating and obtaining government services while providing a great experience. Starting with the stereotypical DMV services, Service Oklahoma took over the administration of the driver license program on November 1, 2022, and the motor vehicle program on January 1, 2023, transferring existing functions and employees from the agencies previously responsible for delivery. Today, we are responsible for seven million transactions that generate almost a billion dollars for the state.

The overarching goal of Service Oklahoma is to create a seamless, consistent experience regardless of whether you visit our website, call our customer support representatives, or come see us at one of our service locations strategically placed in every county in the state. This ambitious initiative is designed to simplify and streamline government services, ensuring accessibility to all Oklahomans. We want to meet Oklahomans where they are, designing services around the citizen, making services easy to understand, available when and where they need them, and being proactive instead of reactive.

While still in our infancy, we have been able to significantly improve our services and launch various new and improved digital products for citizens. There is one that I want to specifically highlight, which also happened to be our first product launch – the disability parking placard, which impacts almost 100,000 Oklahomans each year.

Historically, disabled Oklahomans in need of a Disability Parking Placard were required to complete a 10 step process that often included repeated contact with their approving physician and visits to the Department of Public Safety headquarters located in Oklahoma City.

For Oklahomans outside of the Oklahoma City metro, this step would require them to travel for hours before they had the benefit of the disability parking placard. Once the customer navigated the cumbersome application process, they were left with no means to check on the status of their application while they waited an average of forty-five days to finally receive the disability placard. The process was further complicated by the fact that applications were occasionally lost in the process.

The obstacles created by the original process led to poor customer satisfaction and, in some instances, served as a complete roadblock to Oklahomans' ability to receive government services.

A multi-agency collaborative program was launched by a team now known as Service Oklahoma and the Oklahoma Department of Public Safety to reimagine the process for obtaining a disability parking placard in a more customer-centric, digitally oriented, and accessible manner. The team also worked with the Oklahoma Medical Board to engage physicians in the pilot process.

The high-level strategy behind the digital disability placard was to understand existing pain points from the perspective of all stakeholders, especially the customer, and iteratively improve each version of the online product based on surveys and interactions with disabled Oklahomans, employees who processed the applications, and physicians.

The resulting digital disability placard product dramatically improved the experience of all stakeholders involved. Customers now have the option to apply online through an easy-to-find and easy-to-use form, with no in-person visits required. This new application has shortened wait times by almost 90% and eliminated 60% of the steps required by the original process. Customer satisfaction with the new application is high, with customers rating the process a 6.2 out of 7 and applauding the ability to track the application process and ultimately receive their disability placard from the comfort of their homes.

Service Oklahoma represents a profound shift in how Oklahoma's government interacts with its citizens. By focusing on simplicity, accessibility, and efficiency, we are positioning Oklahoma as a leader in providing government services that meet the evolving expectations of our citizens.

In closing, I sincerely appreciate the opportunity to tell our story. Service Oklahoma's journey is a testament to what can be achieved when we prioritize the citizen's needs. We are eager to collaborate, share insights, and work together to unlock the virtual front door to government services for everyone.

Thank you for your time, and I look forward to your questions and discussions.

ERIN MENDENHALL
Mayor

OFFICE OF THE MAYOR

United States Senate Special Committee on Aging

"Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans."

September 21, 2023

**Testimony of Ashley Lichtle, ADA Coordinator,
Salt Lake City Mayor's Office**

Hello members of the committee, my name is Ashley Lichtle. I would like to thank Chairman Casey, Ranking Member Braun, their teams, and the other members of the committee for the opportunity to discuss accessibility of web information for governmental entities. This has been a top initiative of mine as the ADA Coordinator for Salt Lake City since I joined the Mayor's Office in 2021 so I am honored to be here with you all today. Prior to my work in Salt Lake City, I worked with people with disabilities throughout Arkansas where I saw the impact the lack of access to web information and digital spaces had during the height of the COVID-19 pandemic. It was and continues to be very isolating for people.

The onset of the COVID-19 pandemic and the rush to go virtual revealed that most functions of daily life were easily able to be digital (whereas previously there had been a general resistance toward remote work as an accommodation), but more importantly, it exposed just how inaccessible much of our world wide web is and the difficulties of navigating digital spaces when improperly designed or designed without the user experience in mind.

The COVID-19 pandemic also revealed how vital, and sometimes lifesaving, it is that all people have equal access to information from their federal, state, and local governments. Governments have utilized digital spaces to provide pertinent information and as a means of engaging with the public for decades, yet still fall short in providing fully accessible digital spaces, including websites, utility portals, documentation systems, and social media accounts.

The Americans with Disabilities Act (ADA) greatly influenced the inclusion of people with disabilities in the built environment but there remains a large gap of inaccessibility in digital spaces. Governmental entities need regulations and guidance for their web content just as the ADA and ensuing Standards provided for the built environment. Governmental entities want to be accessible to and inclusive of their residents, but unlike stairs or narrow walkways, inaccessible features of websites and other digital spaces are invisible to those who do not rely on them unless they have been trained to seek out and remedy these barriers to access.

P.O. BOX 145474
451 SOUTH STATE STREET, ROOM 306
SALT LAKE CITY, UT 84114-5474

WWW.SLCMAYOR.COM
TEL 801-535-7704

Salt Lake City's Efforts

Website Migration and Third-Party Apps

Salt Lake City currently uses a standard content management system for our websites. I have found this system's templates are often inaccessible with little ability to adjust template features. The City is migrating to a composable architecture system that will allow for greater flexibility and more agility in preventing and fixing any accessibility issues in our website. It will also create a uniform template across departments that will function the same throughout the City. This template will be created to Web Content Accessibility Guidelines (WCAG) 2.1 to begin with an accessible platform. This migration will also allow the City to utilize application programming interfaces (API's) from other local apps to build what our residents and visitors need to navigate our digital and physical spaces more independently.

This move away from some third-party app developers is vital to the engagement of people with disabilities in our city. Recently, I worked with the City's Information Management Services (IMS) team, a low-vision resident and Salt Lake City's Accessibility and Disability Commission Chair, who is a blind individual, to go through our city's request app to identify ways the app was inaccessible to them. With that information, the IMS team and I met with the third-party app developer to review the identified issues. The developer informed us that some issues were well known to them and would not be fixed in any upcoming updates. Therefore, this app would remain inaccessible to the resident and others like him.

We can create an accessible user experience with our new website and affiliate apps through our partnerships with the National Federation of the Blind of Utah and the Utah Division of the Blind and Visually Impaired and through the expertise of Salt Lake City's Accessibility and Disability Commission but having implementation guidance from the federal government would further improve the design and development of these spaces.

Social Media and Civic Engagement

We utilize social media as a tool to spread pertinent updates widely and quickly to the public. I help all content creators in the City to understand the importance of applying WCAG 2.1 to social media posts, ensuring all users can perceive the same information. For example, individuals using the pedestrian right of way want to be informed of impacts to their routes to plan accordingly, much like drivers would. Therefore, it is vital for our content creators to ensure content posted about events, construction or other closures can be perceived by all users, including those using image descriptions and alt text, rather than only users who can see text on an infographic or sign.

Designing digital content with all users in mind is also crucial for civic engagement. We frequently use digital surveys to get public feedback on current and upcoming projects throughout the City. Engaging different demographics is crucial to the success of projects in the City because such engagement ensures a robust and representative dataset. Lengthy, complicated, or inaccessible screen reader surveys prevent people from engaging, decreasing the validity and inclusivity of our results. Our Civic Engagement team collaborates with me to review accessibility before surveys are released to the public. The team is also compiling a style guide for creating engaging and inclusive surveys.

People with disabilities have been underrepresented in civic engagement efforts or entirely prevented from participation throughout history. Therefore, utilizing WCAG 2.1 in digital surveys and other digital engagement content is vital for the inclusion and participation of our residents with disabilities. We value the contributions of and feedback from the disabled community in improving our city and work to make sure our content reflects those values.

NPRM on Accessibility of Web Information and Services

Data shows on average people with disabilities make up roughly 25% of the population. This is a significant amount of people that may not be able to perceive, interact with, or understand the digital content governments create, which can result in frustration, lack of engagement, and, at the very worst, feelings of isolation. Adopting WCAG 2.1 would be a much-needed step towards the full participation and independence of people with disabilities.

It is imperative that entities understand how to comply with WCAG 2.1 so I urge the Department of Justice, US Access Board, and ADA National Network to be diligent in creating technical guidance, especially plain language guides and trainings, for entities as they implement these regulations.

It is exciting to discuss the adoption of WCAG 2.1 with the vivid memories of the challenges in pivoting to a virtual world still impressed upon us. Adopting WCAG 2.1 will undoubtedly change how creators and engagement teams design content and how web accessibility is discussed and implemented in classrooms.

Thank you all for your work on this vital effort for inclusion.

Respectfully,

Ashley Lichtle, MPA
ADA Coordinator
Salt Lake City Mayor's Office

Questions for the Record

U.S. Senate Special Committee on Aging
"Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans"
September 21, 2023
Questions for the Record
Chris Westbrook

Chairman Robert P. Casey, Jr.

Question:

Mr. Westbrook, the proposed ADA Title II regulations would require state and local governments to meet WCAG 2.1 accessibility standards. Could you discuss the WCAG 2.1 standards a little more, including:

How specifically would following WCAG 2.1 standards ensure that state and local websites are accessible for people with disabilities?

Response:

WCAG standards cover all types of disabilities, therefore ensuring that compliance with these standards will lead to more accessible websites for all.

Question:

Does following WCAG hinder or help efforts to create innovative new accessibility features that broadly work for people with disabilities?

Response:

It helps because it includes minimum guidelines that all such features need to make websites accessible.

Question:

During the Aging Committee's investigation into inaccessible federal technology, we learned that accessibility can improve websites, apps, and other technology for everyone – not just people with disabilities. One example is that curb cuts make it possible for wheelchair users to cross the street and also help young parents who

are using strollers, travelers with luggage, and people who use carts to bring their groceries home.

Mr. Westbrook, in your work with private businesses, have you run into examples where making a business's website more accessible for people with disabilities has also benefited that business's non-disabled customers?

Response:

Sometimes when making things accessible, more thought and care is put into the design, making it easier for everyone. The primary benefit is that people with disabilities are able to reach their full potential, thus benefiting society as a whole.

Question:

Mr. Westbrook, are there any lessons that federal, state, and local governments should take away from the efforts of businesses to make their websites and technology accessible?

Response:

There needs to be a champion within the government that ensures accessibility efforts are being made. Also there needs to be frequent testing and monitoring, preferably by people with disabilities, to make sure that accessibility requirements are being met. Accessibility is an ongoing process.

Question:

I understand it is sometimes difficult for government employees to find programmers who understand why websites and apps need to work with assistive technology like screen readers. What can we do to increase education among programmers on the importance of incorporating accessibility into their work? What advice would you have for federal, state, or local governments that have trouble hiring programmers who understand accessibility?

Response:

Perhaps we need to work with the colleges and universities to ensure accessibility is taught to all of their students.

Question:

Can you talk about how the inaccessibility of websites, software, and other technologies use by employers affect the ability of a person with a disability to do their job? What potential long-term impact can inaccessible technology have on the career of a person with a disability?

Response:

If a person is unable to do parts of their job due to inaccessibility, they may be denied promotions or even fired if they are unable to perform essential functions of the job. They may also not be willing to apply for other jobs they are qualified for due to fears of inaccessible websites and technology.

Senator Mark Kelly

Question:

Mr. Westbrook, you're an engineer. I'm an engineer too. When we run into problems, as engineers, we like to find the solution. Sometimes, the bigger the problem, the better.

It's clear from this hearing, and just living in the world, that we have accessibility problems.

I had a group of students from Arizona come visit my office in DC. They were so excited to be on Capitol Hill and advocate for more accessible technologies and better access to resources for folks who are blind, like they are. They get to the Capitol and open up the app that should explain the history around each statue in Statuary Hall. And the audio, which is supposed to make it accessible, doesn't work. In 2023, ensuring that websites work for people with disabilities should not be this hard.

How can we be better at using the technology and AI becoming available to us to make content more accessible, and to convert information into a format that more people can consume?

Response:

AI is getting better and better at describing images, which is awesome. But unfortunately, websites are a lot more than just unlabeled images. It ultimately takes testing and good implementation by humans to fix a lot of accessibility errors. I have no doubt that as AI advances, it will do better and better at detecting and fixing accessibility barriers, but I think there will always need to be a human component to accessibility testing/fixing.

Senator Raphael Warnock

Question:

As a Senator, I often hear from Georgians with disabilities about the struggles they face when accessing government services. As we continue to increasingly rely on technology to provide government services, we have a responsibility to ensure that technological advances are inclusive of everyone, including people with disabilities.

Mr. Westbrook, I am sorry to hear that due to inaccessible technology, you have faced challenges in completely everyday tasks. What can members of Congress, including myself, do to ensure that our Congressional websites are accessible to everyone, including people with disabilities?

In recent meetings with members of the deaf-blind community in Georgia, advocates have emphasized the need for better access to information during emergency situations. In particular, they mentioned being unable to receive information during weather-related emergencies, when outdoor warning sirens are used to alert people without hearing loss.

Response:

Thank you for your attention to this matter. The biggest thing you can do is communicate with your IT staff that accessibility is important to you. If they don't have the knowledge, there are companies out there that can help, but it needs to be made a priority.

U.S. Senate Special Committee on Aging
"Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans"
September 21, 2023
Questions for the Record
Ronza Othman

Chairman Robert P. Casey, Jr.

Question:

Ms. Othman, you provided multiple examples of inaccessible state and local technology. Could you please discuss the necessity of the proposed ADA Title II regulations? Specifically:

Have state and local governments broadly succeeded at provided accessible websites and apps? How would you describe the state of innovation in this space across the totality of state and local governments?

Response:

In general, I'd say that state and local governments fail to meet accessibility needs of the public and those who are employees of state and local governments. This is because there is no minimum standard for accessibility, no shared expectation or guardrails, no enforcement, and no accountability when state and local governments fail to be digitally accessible. Some states have followed the Federal government's standard for Section 508 of the Rehabilitation Act, which implements WCAG standards. Most have not.

I've heard from constituents from all over the country who've shared their challenges accessing information from state and local government because their websites are not accessible, their kiosks are not accessible, their digital forms are not accessible, and so on. This ranges from individuals who are trying to use state unemployment systems to those trying to sign up for social services to those trying to complete a foster parenting application to those trying to pay a water or garbage bill to those trying to access their property taxes to those trying to petition for divorce and so on. The lack of a minimum standard means that each jurisdiction does its own thing, and that makes it all the more difficult for a taxpayer, who will

likely engage with multiple jurisdictions, e.g., their city, their county, their state, and subsets and departments within each.

Question:

Would a federal standard prohibit state and local governments from making their technology more accessible, beyond what is required by the federal government?

Response:

A federal standard would only improve the ability of state and local governments to make technology more accessible. The Federal standard is the floor, not the ceiling, and thus states and local government entities would still have the ability to be innovative and maintain autonomy over their systems and content; a federal standard would simply establish a uniform expectation for the minimum and meeting the minimum technological needs of the disability population, veterans, and the elderly is the least Government can do. More, the minimum standard for accessibility that exists in Section 508, WCAG, and the ADA Title II regulations (if done correctly) are founded on technology best practices and standards that have been developed by the industry, have evolved and been time tested, and have been widely accepted by the technology community.

Question:

Would the ADA Title II regulations help people with disabilities push state and local governments to be more responsive and do better with making their websites and apps accessible? What other steps could the federal government take to help people with disabilities who are seeking accessible state and local technology?

Response:

The ADA Title II regulations, if the seven exceptions are not adopted, will help state and local governments be responsive to the needs of taxpayers with disabilities, veterans, and the elderly, and they would drive innovation and compliance. This is because each entity would not have to fend for itself in figuring out what to do or how to do it.

I believe the Federal government could improve the experience and engagement of individuals with their state and local governments by helping frame solutioning in that the minimum accessibility standard would be apparent and understandable. In

addition, the Federal government should hold state and local government accountability for failing to comply with accessibility standards through the use of all of the mechanisms in the Department of Justice's toolbox. Moreover, as state and local government entities are often recipients of Federal funds, they have a heightened obligation to adhere to standards that ensure access and meaningful inclusion.

The Federal government is also best suited to share with the public data and statistics regarding compliance and non-compliance of state and local government entities. Public information about an entity's non-compliance is often a powerful motivator for them to come into compliance.

Question:

Many private companies exist in the accessibility space. I understand that the services they provide vary greatly in quality, yet many may offer their services to federal agencies, as well as state and local governments. Can you provide examples where accessibility companies have failed to make websites fully accessible, and the problems that creates for people with disabilities? Can you recommend best practices for governments seeking private help for making their websites accessible?

Response:

Unfortunately, there are some private companies that bamboozle Federal, state, and local government by claiming to provide automated solutions to accessibility and promising instant compliance. Accessibility overlays, for example, are marketed as a fast fix to the accessibility problem and promise that within minutes, a website can become accessible. More often than not though, the overlays either do nothing to help with accessibility or make the website less accessible.

One such example is a company called AccessiBe, which has done more harm in the website accessibility than perhaps any other culprit in history. AccessiBe claims that entities that procure its services can nearly instantly make their websites accessible, thereby avoiding litigation. However, the disability community emphatically rejected their assertions as outright incorrect and called for a ban on use of overlays and services through AccessiBe. In fact, AccessiBe's manipulation and false advertising was so egregious and harmful that the National Federation of the Blind banned AccessiBe as an NFB convention sponsor in 2021 (see https://www.forbes.com/sites/gusalexiou/2021/06/26/largest-us-blind-

advocacy-group-bans-web-accessibility-overlay-giant-accessibe/?sh=7c2951a15a15). In 2023, AccessiBe issued a public apology for its actions, but the disability community has not observed any improvement in their accessibility or their rhetoric.

The fundamental flaw with trying to automate accessibility is that technology cannot dynamically fix inaccessible technology. For example, an automated accessibility checker will just review the website to see if there are labels on links, but it won't be able to discern that those links aren't properly labeled in a way that is meaningful. In other words, if there are links for "back," "next," and "cancel," but they are labeled in the metadata that assistive technology uses as "link," "link," and "link," the automated checker and overlay tools won't think there is anything wrong to flag.

Thus the best thing government can do is combine automated accessibility checks with humans to backstop and remediate inaccessibility.

Question:

Along with several colleagues, I introduced S. 2910, the Federal Agency Accessibility Compliance Act. This legislation would require all federal agencies to have a Section 508 compliance officer. It would also require federal department and agency heads to annually certify that their websites and technology are Section 508 compliant and accessible. Can you describe how legislation like this would help ensure that federal websites and technologies are accessible?

Response:

This legislation, when enacted, will help in the digital accessibility space in several significant ways. First, having an individual be officially, publicly, and transparently responsible for 508 compliance is critical to implementation and enforcement. Federal agencies need a leader to be designated to oversee this work and this requirement. Moreover, having it be a high-ranking individual means that person can influence incorporation of accessibility principles throughout the enterprise. Finally, Congress taking this step signals to Federal agencies that 508 compliance is a critical part of the IT infrastructure and Federal government operations generally.

Likewise, the annual certification of accessibility will: 1) trigger an annual self-audit of each agency; 2) make transparent and public where agencies are failing on

508 compliance; and 3) enable Congress and DOJ to better hold agencies accountable for 508 compliance.

However, this legislation is a first next step, but there are other things that need to happen to make 508 compliance commonplaces in the Federal sector. Chief among these is empowering and resourcing the U.S. Access Board to lead in this area and creating a complaints mechanism and standard process with concrete consequences for non-compliance.

Question:

During the Aging Committee's investigation into inaccessible federal technology, we learned that accessibility can improve websites, apps, and other technology for everyone – not just people with disabilities. One example is that curb cuts make it possible for wheelchair users to cross the street and also help young parents who are using strollers, travelers with luggage, and people who use carts to bring their groceries home.

Ms. Othman, can you share examples were making government technology more accessible has benefited non-disabled residents, as well as residents with disabilities?

Response:

The impact of making technology and spaces accessible to people with disabilities has a positive net benefit for everyone. For example, dictation software originated as a reasonable accommodation for those who had dexterity challenges and could not type. Instead, they voiced information into technology and operated that technology with voice commands. Today, we use that same technological bedrock for voice dictation through Seri, engaging with smart speakers, and using voice activated applications and technology.

Another example is the audiobook. Initially, books on tape were used primarily for individuals with print disabilities and the elderly. Today, those traveling in their own vehicles and on public transportation listen to audiobooks routinely. Moreover, the audiobook industry has become a multi-billion dollar industry that generates jobs and contributes to the economy in addition to its educational and entertainment value.

There are thousands of other examples of such technology that was created in the disability space but is now widely used by everyone.

Question:

The report that I released last year, Unlocking the Virtual Front Door, highlighted a number of accessibility problems with federal technology. It also issued a series of recommendations to address those problems. How would implementing the recommendations from Unlocking the Virtual Front Door improve the accessibility of federal technology? Are there additional steps we should consider that would improve Section 508 compliance?

Response:

The recommendations in the Report will, if implemented, narrow the gap between inaccessibility and accessibility in the Federal government. Chief among these are the need for Congress to act to ensure greater accountability in the Federal sector when it comes to 508 compliance.

Moreover, the current state of 508 is that the law was passed decades ago but there are no consequences for failing to adhere to it. Additionally, the mechanism for enforcement of Section 508 is virtually non-existent at worst and fatally flawed at best. Congress should enact legislation that establishes a centralized entity to enforce the Section 508 complaints process similar to how the EEOC enforces the Section 501 process. In this regard, Federal employers have consequences for failing their workforce in terms of accessibility. They would also be more accountable to the taxpayers that rely on their services.

Question:

Can you talk about how the inaccessibility of websites, software, and other technologies use by employers affect the ability of a person with a disability to do their job? What potential long-term impact can inaccessible technology have on the career of a person with a disability?

Response:

Every day of work is a challenge for a person with a disability when it comes to technology not because of anything inherent about the employee, but because the employee doesn't know if the technology will work that day with their assistive

technology. Imagine what it would be like to come to work every morning and not know if you could get the door to your office open because when the cleaning personnel come by at night to clean, they constantly adjust the doorknob. Just a tiny misalignment of that doorknob means the door jams, and you're then locked out of your office. If you're lucky, someone will come by with a tool to dislodge the door, but you might have to wait months or years sometimes while a new door is built, procured, ordered. Then, sometimes that door finally arrives, and it is the wrong size for the jam.

This is the day in the life of a government worker with a disability who uses assistive technology.

Worse, if the worker complains, which they are unlikely to do because they don't want to jeopardize their job, make waves, or risk retaliation, that complaint goes into a circular file and nothing happens on it.

Worse yet, the employer reports that they're doing great when it comes to accessibility to DOJ and Congress, and that then causes the worker to feel gaslighted and demoralized.

I have met hundreds of people who want to work, but the barriers that inaccessible technology creates locks them out of work. I've met hundreds who tried to work but were unsuccessful not because they weren't smart enough or capable or interested, but because the technology didn't work, and the employer didn't work to fix it. I've met hundreds of people who now don't work and instead receive disability benefits – because their employers didn't care enough to make accessibility a priority. These people are on fixed incomes, don't contribute to the economy in the way they would if they were working, and generally are living lives that keep them down. Again, their disabilities are not the cause - the government's failure to grant them equal access to information and technology is the cause.

Senator Mark Kelly

Question:

Ms. Othman, we know that information intended for a target audience—like seniors, or veterans—only has value if it can actually be used by that audience. That's one reason why I worked with Senator Blackburn to introduce the

VA Quality Health Care Accountability and Transparency Act in the 117th Congress. This bill would require the VA to work with veterans, veteran service organizations, and caregivers to determine how to best design the VA website so it works for the people who rely on it.

I was pleased that parts of our bill were passed as part of the Consolidated Appropriations Act of 2023. That bill required VA to review the information they provide online and figure out how they can best make that accessible and usable. In their report, they noted how they're working to improve the overlap of shared quality measures with Medicare's Care Compare website.

This makes a lot of sense to me. Are there are additional actions around digital formatting or information standardization that the government could take that would improve accessibility?

Response:

Government should universally adopt and deploy the most current WCAG standard. The Government should require that anything it procures from industry meet that standard, as the Federal government's purchasing power is its strongest carrot. If the Government demands accessibility, the market will furnish it.

With regard to individual Federal agency websites, DOJ should annually audit and public the results of that audit. Moreover, Federal agency heads should have to demonstrate in their annual budget hearing testimony what their individual agencies have done to advance accessibility in their technology and websites. Congress should penalize agencies by withholding funding if they fail to meet accessibility standards – the stick.

Congress should lead by example and audit its own websites and then work to improve accessibility.

Finally, the DOJ must resist, and Congress should insist they do through whatever means necessary, adopting the seven new exceptions to Title II of the ADA that are in the Summer 2023 proposed regulations.

U.S. Senate Special Committee on Aging
"Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans"
September 21, 2023
Questions for the Record
Jay Doyle

Senator Raphael Warnock

Question:

As a Senator, I often hear from Georgians with disabilities about the struggles they face when accessing government services. As we continue to increasingly rely on technology to provide government services, we have a responsibility to ensure that technological advances are inclusive of everyone, including people with disabilities.

Mr. Doyle, how can government agencies better leverage technology to ensure that information, especially in emergency situations, is effectively communicated to people with disabilities?

Response:

We need to be consistent with our communications to the public so they know what to expect when we communicate and how we will communicate with them. The public should be aware of the response from government agencies during emergencies. With today's technologies, we can communicate quickly and effectively through various communication channels such as website banners, text messages, social media, phone calls, etc., to be sure we are reaching a broad audience and that communications are accessible to all. We can also leverage GIS and location-based services to target our communications better to ensure they get the citizens most impacted by a situation.

Therefore, we have a thorough product development process that includes user interviews and testing, and an accessibility check to ensure any new product launch meets accessibility standards. We also request user feedback after launch to continually find ways to make changes to our digital services to make them more user-friendly.

U.S. Senate Special Committee on Aging
"Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans"
September 21, 2023
Questions for the Record
Ashley Lichtle

Chairman Robert P. Casey, Jr.

Question:

Ms. Lichtle, how would the proposed Title II regulations help Salt Lake City in its efforts to make its websites and apps accessible? Are there additional actions, beyond the proposed regulations, that Congress could do to serve as a partner to cities and localities in ensuring accessible websites and apps?

Response:

With these regulations in place cities such as Salt Lake would have a better understanding of what is expected of them for accessible websites and apps. This ideally would encourage cities to hire staff who have the skills to implement WCAG and design with the disabled user experience in mind. It would also encourage cities to ensure contracted third-party developers have staff knowledgeable and capable of designing digital spaces that comply with the regulations.

As I mentioned in my testimony, it is crucial for Congress to provide support through clear and thoughtful technical guidance to cities as they work to increase their digital accessibility and the bandwidth for staff implementing these standards. Beyond technical guidance, all federal websites should be a model of best practices in web accessibility.

Question:

During the Aging Committee's investigation into inaccessible federal technology, we learned that accessibility can improve websites, apps, and other technology for everyone – not just people with disabilities. One example is that curb cuts make it possible for wheelchair users to cross the street and also help young parents who

are using strollers, travelers with luggage, and people who use carts to bring their groceries home.

Ms. Lichtle, can you share examples were making government technology more accessible has benefited non-disabled residents, as well as residents with disabilities?

Response:

Everyone benefits from the use of plain language and ease of use so when we design technologies with clear and concise steps to follow and simple language for interaction it creates a more pleasant experience for everyone. Anyone interacting with a new technology or system that isn't intuitive or clearly laid out is frustrating so designing technologies that are not difficult to interact with is important for all constituent satisfaction and engagement.

Question:

Stakeholders have told the Aging Committee that it is important to build accessibility into government services from the beginning. For example, a 2016 audit found that the Department of Veterans Affairs paid more than $34,000 in additional costs to make an inaccessible website accessible. Ms. Lichtle, how does cost factor into Salt Lake City's efforts to make its websites and apps accessible? Does Salt Lake City see a financial benefit to making its websites and apps accessible up front, as opposed to doing so later?

Response:

For Salt Lake City, the financial benefits of factoring accessibility in from the onset of this project are the reduced need for costly technology rework later and savings on staff time. Accessibility norms and expectations are set from the start for the team and any staff who interact with the website moving forward. Creating accessible technologies saves us on using overlays or other accessibility software that can be costly and ineffective when there are inherent issues with the website that must be fixed manually. It also ensures that people with disabilities can apply for Salt Lake City jobs and employees can interact with technologies to do their jobs without additional accommodations.

Question:

Can you talk about how the inaccessibility of websites, software, and other technologies use by employers affect the ability of a person with a disability to do their job? What potential long-term impact can inaccessible technology have on the career of a person with a disability?

Response:

Paper applications or resumes are generally not accepted so if a company's website or employment portal is inaccessible or if their accommodation information is buried in an inaccessible website, a person may not even be able to apply for a job they are qualified for.

If a person with a disability gets through the application and interview process, they then may have to navigate accessibility issues within their company. One recent example of inaccessible technology in the workplace shared with me by an Accessibility and Disability Commissioner highlights the issues of inaccessible technologies in the workplace. A local call center company that has blind and low vision employees updated their proprietary reservation software. Prior to the update, blind or low vision employees could use screen readers or other assistive technologies to work, but the update made the software inaccessible to these technologies causing people to have to leave their job. This was a qualified workforce that was pushed out due to inaccessible technologies and an employer that did not consider accessibility.

One major long-term impact of inaccessible workplaces would be lacking a sense of belonging with that organization or even in the workforce. It shows that accessibility isn't a core value to their employer. The added time and difficulty of navigating inaccessible technologies would cause dissatisfaction and frustration as well as inability to do the job if they are not offered reasonable accommodations. This may drive qualified people out of the workforce.

Statements for the Record

Department of Veterans Affairs

Congressionally Mandated Report: Accessibility of VA Electronic and Information Technology to and Usability by Individuals with Disabilities

August 2023

Purpose

In accordance with the requirements of section 752(a)(3) of the Financial Services and General Government Appropriations Act, 2023, which is Division E of the Consolidated Appropriations Act, 2023 (P.L.117-328), the Secretary of Veterans Affairs is to report to the Office of Management and Budget and the General Services Administration regarding the accessibility of Department of Veterans Affairs (VA) electronic and information technology to individuals with disabilities, in accordance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794d). The report shall evaluate the electronic and information technology of the agency used by individuals with disabilities and outline the progress made with website and web application accessibility. The report will also highlight outreach connections established with Veterans Service Organizations (VSO) and other supporting organizations.

Executive Summary

VA continues to refine and improve the digital accessibility of websites to support the needs of disabled Veterans, their families, caregivers and employees. To assess progress toward that end, scanning results show compliance levels have significantly improved since the last report to Congress in 2021. Detailed results are discussed below.

VA values the expertise of and partnerships with VSOs. Over the last 9 months, VA has worked to strengthen and deepen engagement with the Blinded Veterans Association (BVA) while also working to collaborate in new ways with traditional VSOs and cultivate relationships with experts in the disability community, all of which strengthens our ability to serve and support disabled Veterans, their families, caregivers and employees.

VA actively engaged in the 12th annual Global Accessibility Awareness Day, in honor of the nearly 1 billion people worldwide living and working with disabilities, to raise awareness and inspire global officials to improve accessibility standards through efforts to bridge the accessibility gap, remove digital barriers and provide equal opportunities to all. Subject matter experts (SME) from VA's Section 508 Compliance Team educated VA staff on the importance of providing accessible products and services.

Reporting progress of 508 accessibility compliance

Meeting the Congressional directive for a singular office leading VA's 508 accessibility efforts, VA's Office of Information and Technology (OIT) realigned the Section 508 Office to OIT's Office of Compliance, Risk and Remediation (CRR) to serve as the lead office responsible for 508 Accessibility. CRR then identified their Operational Planning and Remediation Directorate (OPRD) as the Department-wide 508 accessibility remediation office to manage remediation concerns, including those related to document remediation; audio description and captioning; website; and application compliance.

In May 2023, OIT developed and disseminated the OIT Digital Accessibility Guide to OIT's 8,000 Government staff. The guide provides practical, high-level instructions for ensuring that the digital content that staff create each day within VA is accessible. It includes templates for Microsoft Word, PowerPoint and Excel that are pre-formatted for accessibility to support the consideration of accessibility throughout the conceptualization, development and design processes for all the content created.

CRR's 508 Compliance Office supports VA's Office of Labor Management Relations (LMR) by attending an All Hands meeting to deliver 508 training to all LMR staff, with follow-on training to smaller groups as requested. CRR has worked alongside LMR's senior executive and staff to support the remediation of 200 public-facing contracts and Memorandums of Agreement. To assist with the development of accessible content going forward, CRR created an accessible Microsoft Word document template for LMR use.

Additional workstreams underway within CRR include VA's Web Accessibility Integrated Product Team (IPT); the formation of the Section 508 Processes Technical Working Group (TWG); and Department-wide training on 508 Compliance. The IPT comprises SMEs from the VA Section 508 Office and the Department's 3 Administrations: Veterans Health Administration (VHA), Veterans Benefits Administration (VBA) and National Cemetery Administration (NCA). The IPT regularly convenes bi-weekly to address VA web accessibility concerns and compliance with the law across the organization. It also coordinates on web accessibility efforts, reporting strategies and implementation status among entities and organizations across the enterprise. Members from this working group provide a monthly compliance status briefing to the Chief Information Officer (CIO). The TWG is formed to define and document the section 508 process frameworks, workflows and other artifacts describing associated activities resulting in documenting processes for publication in VA's Process Asset Library. The TWG has a designated Process Sponsor and Process Lead and is comprised of members with diverse backgrounds and experience who serve as advocates for continuous process improvement. The initial focus for the Section 508 Processes TWG is to develop and document the 508 Audit (508A) Process. To date, in calendar year 2023, CRR has conducted 53 training sessions, delivering training for over 600 staff across the Department. Additionally, OPRD is leveraging an existing CRR contract to assist VHA and VBA with remediating documents.

NCA has placed a high degree of importance upon achieving 508 Compliance on its websites and applications; therefore, it took the initiative to award a Remediation Contract. CRR's OPRD is working closely with NCA to support this effort by providing Contracting Officer Representative support.

Report on websites and web-based applications

The results from the scans of websites and web-based applications indicate steady conformance improvements. Conformance levels for the 438 internet websites scanned are displayed in the table on Page 4. Fourteen of the websites are at full conformance.

The average conformance percentage for VA internet websites scanned in May 2023 was over 79%, which demonstrates improvement over the last year.

VA Internet Conformance Level	0 to 19%	20 to 39%	40 to 59%	60 to 79%	80 to 99%	100%
March 2020	11	18	95	69	227	36
March 2021	15	23	92	64	227	41
March 2022 (protest)	0	0	0	0	0	0
March 2023	0	0	0	7	433	0
May 2023	0	0	0	1	423	14

Note: In March 2020 and 2021, compliance data were produced by a scanning tool that did not include manual checks in the overall score. In 2022, compliance scores were unavailable due to recompeting the scanning contract and the ensuing protest to the contract, which is now resolved.

In December 2022, a new contract was awarded. VA is implementing a 2-phase approach, per the direction of OIT's CIO, as follows: (i) an Out of the Box (OOB) Software as a Service (SAAS) to provide raw data to better gauge timely remediation progress; and (ii) a VA Enterprise Cloud (VAEC) instance to provide detailed reports and customization. The raw data provided for March and May 2023 are pulled from the OOB SAAS tool. By the quarter (Q) 4 of fiscal year (FY) 2023, the VAEC will replace the OOB SAAS tool.

VA's Section 508 Office plans to conduct compliance scanning of intranet websites upon successful deployment of the scanning tool to the VAEC instance. The expectation is to produce compliance reports during the Q4 FY 2023.

To continue increasing the conformance levels shown in the above table, VA will leverage a multi-faceted approach to improve production quality, including the following:

- Training;
- The inclusion of compliance requirements in acquisition language;
- SME engagement with project/product teams; and
- Use of automated tools during development cycles.

Maintaining open lines of communication with VSOs and other supporting organizations

VA's Section 508 Office conducts meetings bi-monthly with BVA to discuss Veteran accessibility concerns. To leverage VSOs and experts in the disability community, VA has continued to maintain open lines of communication and outreach with the following organizations:

- American Council of the Blind
- The American Legion
- Augusta VA Medical Center (VAMC)
- Bazelon Center for Mental Health Law
- Disabled American Veterans
- Blinded Veterans Association
- California State University Northridge Assistive Technology Conference
- Department of Defense
- Department of Homeland Security
- General Services Administration (GSA)
- National Association of the Deaf
- National Disability Rights Network
- National Federation of the Blind
- Paralyzed Veterans of America
- National Veterans Golden Age Games
- U.S. Access Board
- Washington VAMC (District of Columbia)

VA will continue to initiate contact with similar organizations, further enhancing engagement with the disabled community, to promote an environment of digital accessibility across the VA enterprise.

Finally, in November 2023, VA and the Federal Deposit Insurance Corporation (FDIC), will be co-hosting GSA's annual Federal Interagency Accessibility Forum for agency representatives to learn about accessibility policies and best practices.

Department of Veterans Affairs
August 2023

AFB American Foundation® for the Blind

Statement for the written record from the American Foundation for the Blind

RE: United States Senate Special Committee on Aging Hearing on: Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans

September 28, 2023

The American Foundation for the Blind (AFB) is grateful for the opportunity to provide a written statement for the record in connection with the Senate Special Committee on Aging's hearing, "Unlocking the Virtual Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans," held on September 21, 2023. AFB is a national nonprofit that advocates for a world of no limits for people who are blind or have low vision by mobilizing leaders, advancing understanding, and championing impactful policies and practices using research and data. Accessible Information and Communications Technology (ICT) is vitally important to more than 8 million people in the United States who reported having difficulty seeing. In an increasingly digital world, lack of access to the Internet, telecommunications, and computer equipment puts people with disabilities at a real disadvantage and impedes opportunities to live in the community, to learn, and to work. We greatly appreciate the Committee's interest in and attention to this important issue.

Progress on Section 508 is not occurring fast enough, and the rule remains largely unenforceable.

Data shows that employees with disabilities have unequal access to federal technology. Inaccessibility remains prevalent in spite of the fact that the government has set goals for disability hiring. AFB's Workplace Technology Study collected survey data in February 2021. At the time of the survey, 32 respondents reported currently working for the federal government or a federal contractor. Another 16 respondents reported on their experience having worked for the federal government or a federal contractor within the preceding 5 years. Specific findings from this group of 48 individuals included:[1]

- 64% agreed or strongly agreed that they had accessibility challenges with electronic paperwork they needed to complete for onboarding to their positions.
- 28% reported accessibility challenges with required online training.
- 65% (31 people) reported that their employer procured new hardware or software that presented accessibility challenges.
- Of these 31 individuals, 42% (13) reported receiving training on the new technology that was either not timely, not effective for them, or both. Another 35% (11) reported receiving timely and effective training, but still having periodic issues when software was updated.

[1] Unpublished analysis from Silverman, A. M., Rosenblum, L. P., Bolander, E. C., Rhoads, C. R., & Bleach, K. (2022). Technology and Accommodations: Employment Experiences of U.S. Adults Who Are Blind, Have Low Vision, or Are Deafblind. American Foundation for the Blind. www.afb.org/wts

- 26 respondents (54%) reported having an automated component to the application for their job. When asked if the automated component was accessible, 11 agreed, 10 disagreed, and 5 were neutral.

The *Section 508 Report to the President and Congress* confirms this experience as it revealed significant variability in agencies' organizational maturity and in the accessibility of intranet and internet pages. Notably, there is evidence that the government is making progress toward delivering public facing pages that are accessible, but those accomplishments vary greatly by agency, and there is still a long way to go to bring intranet pages up to the same standard.

Section 508 must be prioritized in agency workflows, and it must be actively enforced. This action must be a priority for agency leadership, contracting and procurement teams, individual content managers, and both the IT and HR functions. Notably, Section 508 is not only about the websites or kiosks that agencies put out to the public, but it is also about providing equal access to employment opportunities at each and every federal agency. The federal government cannot be a model employer of people with disabilities without greater adherence to accessibility practices government-wide.

All agencies should appoint a Chief Accessibility Officer who is responsible for ensuring compliance with Section 508 agency wide and for implementing the digital accessibility roadmap prescribed by EO 14035 and other strategic plans. Far too often agencies have only a handful of lower or mid-level employees that are presumably responsible for the agency's compliance. This is unworkable as they often can only recommend change, not mandate it, and they often do not have the bandwidth to change agency practices on their own. We appreciate the introduction of the Federal Agency Accessibility Compliance Act of 2023 (S.2910) that aims to move agencies closer to the goal of having a high-level decision maker with responsibility for ensuring that each agency and subagency is complying with the law.

All agencies, including small agencies, should evaluate and report on ICT accessibility using all available mechanisms, including the GSA/DOJ joint report required by section 508, the 21st Century Integrated Digital Experience Act, EO 14035, and inspector general audits. We appreciate that Congress mandated a report on agency implementation progress of Section 508 in Section 752 of the Consolidated Appropriations Act of 2023. Notably, subagencies will have to report separately from the umbrella agency, giving Congress, advocates, and the executive branch itself a better understanding of how the government is performing. We encourage Congress to ensure that action is taken to address gaps revealed in the forthcoming report and ensure that Section 508 compliance remains a priority for agencies in the face of competing demands.

Procurement processes must be improved government-wide to make Section 508 controls normal and effective, including by adding compliance language to contracts, improving the VPAT process, certifying vendor accessibility claims, and publicly reporting on product accessibility. The federal government and its contractors depend heavily on ICT products procured from external vendors, and the lack of accessibility in these products is a key contributor to the accessibility barriers in government wide ICT use. We encourage Congress to place greater emphasis on enforcing accessibility in ICT procurement and providing direction and funding to agencies to strengthen their procurement and contracting processes.

The National Security exemption in Section 508 should be reviewed by Congress and the Executive branch to determine whether it is being applied in a manner that unnecessarily screens out qualified people with disabilities. Congress allowed an exemption for national security systems, presumably to

protect security interests. However, as time goes on, it should be more achievable to make these systems both accessible and secure. The blanket exemption of national security systems excludes people with disabilities from many government jobs. In the future, it will be beneficial to the aims of the Rehabilitation Act and the Americans with Disabilities Act not to proactively exempt any category of technology from accessibility requirements as doing so disincentives agencies and vendors from creating solutions that meet all interests. Instead, agencies should have to evaluate on a case-by-case basis whether national security interests truly preclude accessibility for employees with disabilities.

Finally, it is important for Congress to understand the difficulties that federal employees and members of the public face in filing actionable complaints regarding ICT accessibility. The limited focus on enforcement and the cost of hiring lawyers to submit formal employment complaints are real barriers both to Congress understanding how prevalent inaccessibility is and to employees receiving appropriate responses that facilitate full productivity and inclusion in the workplace. We applaud the work that Congress is doing to raise awareness about accessibility and encourage Congress also to consider how to create additional opportunities for submitting complaints and receiving timely resolution of those complaints.

State and local governments demonstrate significant variation in their commitment to ICT for their employees and constituents.

People who are blind, deafblind, or have low vision face significant barriers due to inaccessible digital tools and barriers to obtaining assistive technology (AT) that affect their ability to participate fully and independently in education, healthcare, voting, paying taxes, obtaining childcare and so much more. One of the most well documented areas where barriers exist is in the educational space, which is largely provided by entities covered by Title II of the Americans with Disabilities Act.

AFB and other researchers documented these barriers both during and before the COVID-19 pandemic. The pandemic made many of these barriers more apparent as students had to rely almost exclusively on computers for their education. One of the primary barriers that blind and low vision students and family members faced was the discriminatory impact of inaccessible digital equipment, platforms, programs, and instructional materials. These materials could be as simple as educator-developed documents full of undescribed images and graphics or text that was not readable by screen readers and other assistive technologies.[2] Many students also did not receive appropriate hardware, such as laptops with large enough screens, in a timely manner.[3] However, one of the most significant barriers involved websites and applications used for purposes including, but not limited to, student learning, classroom management, file creation and sharing, and communication that were inaccessible to blind or low vision students as well as blind or low vision family members. Too often, Ed Tech companies seem to lack either the knowledge or impetus to make their tools accessible, and school procurement officers and IT professionals are not aware of how to procure fully accessible tools.

In November 2020, AFB found that nearly 60% of educators surveyed reported that their students who were blind or had low vision could not access at least one digital classroom tool or program. 35%

---

[2] Silverman, A.M., Rodriguez, G.M., Rhoads, C.R., & Bleach, K. (2022). Access and Engagement: Reflecting on the Impacts of the COVID-19 Pandemic on the Education of Children Who are Blind or Have Low Vision. American Foundation for the Blind. p 8. www.afb.org/AE3

[3] Id, 11.

reported that their students could not access at least two tools.[4] Additionally, family members who were surveyed reported their children were expected to use an average of 4.9 different tools or programs, and on average, 2.7 tools or programs were reported to be inaccessible.[5]

Inaccessibility of digital learning tools and programs can have significant consequences. Our research revealed that during hybrid and online learning, PK-12 students were unable to complete required assignments and often needed continuous support from a family member to complete schoolwork, negatively impacting that family member's ability to work.[6] 56 higher education students reported dropping a class, taking an incomplete, leaving their program, or having to file an official complaint because of the lack of accessibility in hybrid or online courses.[7] Because they could not participate and access lessons like their peers, students felt frustrated, discouraged, or excluded.[8] Educators had to invest additional resources to create alternative lessons for their students with disabilities or in the absence of an alternative, simply exempted the child from lessons delivered via inaccessible digital platforms.[9] Additionally, blind parents, who do not have access to specialized supports, struggled to support their children, especially very young children.

For illustration, one family member, who was also an educator of blind students, wrote:

> "My biggest frustration is overall accessibility. Example, the class is assigned an online science simulation on creating circuits that is produced by a curriculum company. The science simulation is visual with no auditory information and the only way to connect the pieces is by using finger gestures. My child can't see the parts so can't do the assignment. The common answer for this situation is to exempt my child because it is too visual. Why? [...] Why does my child not have the opportunity to learn ideas and concepts because companies don't make things accessible, schools buy those inaccessible programs and then don't provide an alternative way to learn the same information?"[10]

Similarly, in the 2023 Barriers to Digital Inclusion research report, AFB researchers found that people who are blind or have low vision struggle to access information about government benefits which are typically administered by state and local governments or their partners. Of 184 individuals who used websites to access public benefits, 53 (28.8%) reported frequent accessibility barriers. Only 46 (25%) reported experiencing no accessibility barriers. Similarly, local transit agencies do not consistently provide riders with accessible apps that provide real time vehicle locations and arrival estimates, while

---

[4] Rosenblum, L. P., Chanes-Mora, P., Fast, D., Kaiser, J. T., Wild, T., Herzberg, T. S., Rhoads, C. R., Botsford, K. D., DeGrant, J. N., Hicks, M. A. C., Cook, L. K., & Welch-Grenier, S. (2021). Access and Engagement II: An Examination of How the COVID-19 Pandemic Continued to Impact Students with Visual Impairments, Their Families, and Professionals Nine Months Later, American Foundation for the Blind. 64.
[5] Silverman, et al. (2022). Access and Engagement: Reflecting on the Impacts of the COVID-19 Pandemic on the Education of Children Who are Blind or Have Low Vision. 8.
[6] Id, 20.
[7] Unpublished data from Rhoads, C.R., Bleach, K., Chatfield, S. & Camarilla, P. (2022). The Journey Forward: Impact of COVID-19 on Blind, Low Vision, and Deafblind U.S. Adults. American Foundation for the Blind. www.afb.org/JF
[8] Silverman, et al. (2022). Access and Engagement: Reflecting on the Impacts of the COVID-19 Pandemic on the Education of Children Who are Blind or Have Low Vision. 8-11.
[9] Rosenblum et al, 64.
[10] Id.

static PDF timetables are also frequently inaccessible. Of 159 individuals who reported using websites to look up local transit information, 48 (30.2%) reported experiencing frequent barriers, and only 31 (19.5%) reported no barriers.[11] Moreover, transit agencies are beginning to deploy electronic bus and train arrival information boards, and these do not consistently have an option to access the information audibly.

Transportation barriers impede access to every other part of life, so it is especially concerning when people with disability face physical and communication access barriers that can prevent efficient movement within their communities. For older adults who acquire a visual disability later in life, the barriers to accessing transportation information easily can compound their reliance on friends and family for transportation access and may result in their inability to leave home or even their eventual institutionalization. Access to information is a critical part of community living.

We are grateful that the Department of Justice issued a notice of proposed rulemaking addressing the accessibility of state and local government websites. This NPRM provides a solid starting point for regulating digital accessibility, but the rule must be improved to protect fully the rights of people with disabilities. If written well, this regulation has the potential to dramatically shift the accessibility landscape for individuals and covered entities tasked with complying with the accessibility requirements. We acknowledge that most entities have no explicit desire to exclude people with disabilities from their programs, yet the current web development and content management landscape does not provide accessibility by default. A strong rule must clarify that accessibility is the expectation, not the exception, across all programs and services and must bring covered entities' many vendors and third-party partners into compliance as well. For that reason, we believe that the final rule must not contain blanket exceptions, especially the proposed exceptions for educational content.

Already, the Department holds that entities must make their websites accessible, yet people with disabilities still frequently encounter access barriers. Thus, people with disabilities must request that websites be made accessible or provided in an alternative format. It is a substantial burden on people with disabilities to continue to disclose their disability, to request that every exempted entity make their services accessible, and to wait until a time that a public entity employee is available to provide assistance. In reality, people with disabilities often forego the service or rely on a companion for assistance instead of requesting an accessible version.[12]

From this point forward technology needs to be born accessible, and if accessibility is a priority, over time inaccessible content will become less and less common. It will take work to shift expectations, roles, workflows, and knowledge about accessibility, but the final product of this work is more effective and fair governance.

Thank you for the opportunity to submit this statement regarding the recent hearing on accessible government technology. We appreciate the Senate Special Committee on Aging leadership on this matter and ongoing attention to fulfilling the goals of both the Rehabilitation Act and the Americans with

---

[11] Silverman, A. M., Baguhn, S. J., Amorosino, B. B., & Carranza, R. R. (2023). Barriers to Digital Inclusion Survey: Digital access barriers for Americans who are blind, have low vision, or are deafblind. American Foundation for the Blind. https://www.afb.org/Barriers-Digital-Inclusion-Survey/Web

[12] Id. See also "Consequences of Access Barriers." https://www.afb.org/Barriers-Digital-Inclusion-Survey/consequences

Disabilities Act and encourage you to continue holding government entities at all levels accountable to serving the technology needs of older adults and people with disabilities. Please do not hesitate to contact me (senyart@afb.org) or Sarah Malaier (smalaier@afb.org) with any further questions.

Sincerely,

Stephanie Enyart

Chief Public Policy and Research Officer

BOSMA Enterprises®

Statement for the Record
Submitted to the Special Committee on Aging
United State Senate

Hearing on

Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans

September 21, 2023

Submitted by
Bosma Enterprises
6270 Corporate Drive
Indianapolis, IN 46278
317.684.0600
bosma.org/enterprises

Rooted in over 100 years of history, Bosma Enterprises is on a mission to create opportunities for people who are blind or visually impaired. Today, Bosma is Indiana's largest and most comprehensive rehabilitation and training services provider for people who are blind or visually impaired. Each year, they serve nearly 1,000 Hoosiers; the majority are seniors aged 55 and older. There are over 150,000 people who are blind in Indiana, and almost 60 percent of them are not employed. Nationally, the National Institutes of Health anticipates the incidence of vision loss to double by 2050. Additionally, the poverty rate for people who are blind is nearly double that of people with vision. The need for these programs is great in Indiana and across the country.

Imagine losing your sight. How would you cook? How would you go to work? How do you raise a family? These questions and more are faced by thousands of Americans each day. Agencies like Bosma bring hope to many who can't imagine life beyond vision loss. The skills taught at Bosma allow a person to engage with their community and country. The services teach skills from cooking and cleaning to job readiness and finding gainful employment. All while bringing independence and dignity to these individuals. They now have the skills to choose their destiny — where they want to live, work, and thrive.

These services are partially funded by government programs like vocational rehabilitation or grants to serve seniors. However, this funding is not enough for the individualized training that is required. Much of these costs at Bosma are covered by philanthropy and our lines of business, primarily through the AbilityOne Program. Bosma is a proud part of the AbilityOne Program, and these contracts allow us to invest in these services to ensure no person is ever turned away.

Employment is the backbone of our society. It allows people to live independently and care for their families. Seventy percent of people who are blind or visually impaired are not working. This is not because they are incapable of work but because of a lack of opportunity. The federal AbilityOne Program was designed to create opportunities for employment for people with disabilities. It employs over 36,000 Americans with disabilities by leveraging procurement of needed goods and services for the government. There is a network of nearly 500 agencies like Bosma across the country. At Bosma, these AbilityOne contracts create jobs for 100 people who are blind, paying them competitive wages and benefits. Over 50% of its workforce is visually impaired and employed at all levels of the company, including

executive leadership. In fact, the two top executives of the organization are visually impaired.

Employees at Bosma work hard and are dedicated to their customers. The company is the primary provider of exam and surgical gloves to the Department of Veteran Affairs through AbilityOne. The employees are proud to serve our nation's veterans and were essential to their protection during the pandemic. Bosma's nearly 200 employees enjoy working for the company, as evidenced by their low turnover rate and high employment satisfaction ratings. These employees choose to come to work for Bosma and enjoy the work they do. Yes, Bosma's mission is to create opportunities for people who are blind, but it is a work environment where its employees can thrive in any way they choose.

The organization is also providing leadership beyond employment and training. Bosma has forged the way to pass legislation in Indiana to create awareness around making buildings more accessible using Beacon Position Systems. They have also collaborated to ensure people who are blind can participate in elections independently through technology. You see, technology is the great equalizer. Hence, it is essential to continue to push for compliance with Title II of the Americans with Disabilities Act, which requires all levels of government to be accessible.

As the demand for services continues to rise, Bosma will be here to assist Hoosier in navigating blindness now and into the future.

September 21, 2023

The Honorable Bob Casey
U.S. Senate Special Committee on Aging
G-41 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Braun
U.S. Senate Special Committee on Aging
G-41 Dirksen Senate Office Building
Washington, D.C. 20003

Dear Chairman Casey, Ranking Member Braun, and Members of the Special Committee on Aging,

Thank you for inviting the Blinded Veterans Association (BVA) to submit input on Section 508 of the Rehabilitation Act of 1978, non-compliance with accessibility standards in federal departments, and the Department of Justice's (DOJ) proposed rule changes to Title II of the Americans with Disabilities Act (ADA).

BVA is the only national Veterans Service Organization (VSO) chartered by the United States Congress and exclusively dedicated to assisting veterans and their families coping with blindness and vision loss. Ensuring that our nation's veterans can access and utilize Department of Veterans Affairs (VA) services, participate in civil society, and not be excluded or discriminated against are now among BVA's highest priorities.

Based on our experience with the accessibility of online resources, we will address the aspects of this hearing that are paramount for blind and low vision veterans. The majority's staff report, *Unlocking the Virtual Front Door*, documents widespread failures not only at VA but throughout the federal government. BVA will comment on these failures in this statement. The proposed rule changes to Title II of the ADA are an important step in ensuring access for the disabled at all levels of government. Lack of access threatens greater harm that will be explored in this statement to include, but not be limited to, an inability to participate in civil discourse and civil action, an inability to access public documents and hearings, and an inability to access government resources.

Section 508 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973 is a cornerstone of U.S. disability law that made diversity, equity, and inclusion of disabled persons a priority of the federal government. Section 508 requires federal technology to be accessible and usable by persons with disabilities. BVA reiterates its prior statement for the record to the Committee on October 6, 2022, concerning VA's Section 508 Office, Digital Services Team, and Perigean Technologies, that progress is being made to ensure accessibility and usability of VA websites, forms, and mobile applications (apps). This progress includes:

- Reorganization of the VA technology office and an agreement to pursue an enterprise license. Doing so will ensure that blind and low vision employees have greater IT accessibility and that they will not be harmed by the possibility that updates breaking their adaptive devices and software programs.
- Release of a report within a few months by the VA Office of Inspector General on the accessibility of VA technology.
- Transfer from WordPress to Dribble of various website content management and design interface systems, thus enabling the implementation of a unified design approach while restricting the creation of inaccessible content, plugins, downloads, and other items permitted by legacy systems.
- Establishment by the Digital Services Team and Perigean Technologies of a best-practices framework integral to advancing beyond the basic Web Content Accessibility Guidelines (WCAG), resulting in improved usability and functionality across all systems.
- Continued reassurance by the Digital Services Team and Perigean Technologies that the recruitment and engagement of blind and low vision veterans by asset developers will continue, resulting in ongoing usability and functionality feedback throughout the design and deployment process.

Despite these positive steps, *Unlocking the Virtual Front Door* details numerous VA failings, including but not limited to the failure to make technology accessible for the disabled multiple times and the conscious purchase of inaccessible hardware. VA is also not compliant with Section 508 of the Information and Communications Technologies Refresh of 2017. VA's most recent congressional report demonstrated that just 7.8 percent of its 812 VA websites are fully compliant with Section 508 of the Rehabilitation Act of 1973. This is woefully worse than the rest of the federal government's websites, which are at 20 percent compliance. Further, BVA agrees with witness Ronza Othman, the report of 20 percent compliance across the federal government is likely inaccurate due to the lack of reporting channels and the fear of retaliation and job loss by an employee who informs their employer that they face difficulties due to the inaccessibility of technology.

According to the same report, all 58 Veterans Benefits Administration Regional Offices received Section 508 conformance ratings of 52 percent or less. VA's internal employee phone book site is rated at zero percent compliant. VA's career website was rated at 16 percent conformant while the Office of Employment Discrimination and Complaint Adjudication website was rated at 22 percent

conformant. These results reflect greater harm to veterans because of missed appointments, an inability for VA employees to do their jobs and contact colleagues, an inability for veterans receive information pertinent to their care, an inability to access VA resources, the latter of which hinders the ability of disabled veterans to be employed by VA.

As Senator Rick Scott of Florida noted during the hearing, non-compliant VA websites have resulted in both monetary harm to as well as harm to the overall care of veterans. BVA has previously testified that blind and low vision veterans have been unable to receive authorized travel reimbursements because a VA website has transitioned from a paper form to an inaccessible online form without the option for a printout or an in-person submission. These unfortunate results are occurring because VA and other federal agencies are pushing toward more fully online systems without testing or ensuring accessibility. In the report, a blinded veteran reported on having been issued JAWS software that allows blinded and low vision persons to use the internet. The veteran was unable to navigate VA's My Health*e*Vet website with JAWS, resulting in the individual being forced to endure lengthy wait times on the phone with VA. Further, as witness Othman and BVA have stated in the past, veterans have been forced to disclose confidential and sensitive information to VA security, bystanders, and staff without any privacy measures in place. This presents a threat to their safety and poses the threat of identity theft. BVA strongly supports VA prioritizing forms and kiosks being made accessible for all disabled persons.

On August 1, 2023, VA released its congressionally mandated report, *Accessibility of VA Electronic and Information Technology to and Usability by Individuals with Disabilities*. The report gives an encouraging progress update that deserves recognition. According to this report, the average conformance for VA websites in May of 2023 was more than 79 percent. From March of 2021 to March of 2023, websites that had a conformance level between 80 and 99 percent, nearly doubling from 227 to 433. No website fell below a 59 percent conformance. The only cause for concern in this report is how VA conducted the research and its plans for conducting compliance reviews.

> VA's Section 508 Office plans to conduct compliance scanning of intranet websites upon successful deployment of the scanning tool to the [VA Enterprise Cloud] VAEC instance. The expectation is to produce compliance reports during the Q4 FY 2023.

This is troubling because it could result in VA websites being technically compliant while functionally inaccessible without a human to verify that it fulfills technical requirements while being useable. BVA has worked closely with VA on Section 508 and the need for greater accessibility enforcement, and we are encouraged by VA's progress and commitment to maintaining strong channels of communication with BVA, the American Council of the Blind, Disabled American Veterans, and many other organizations. Much progress has been made, and while challenges remain, we look forward to working with VA to address them.

BVA supports the Veterans Accessibility Act of 2023, which would create a Federal Advisory Committee composed of members of the disabled, veteran, VA, and academic communities to oversee and advise VA on accessibility laws. BVA believes this committee would only strengthen

communications from relevant communities with VA. This committee would ensure that all parties are able to discuss their concerns and work towards improving VA to better serve all veterans.

As part of the *Unlocking the Virtual Front Door* report, Senator Casey makes several recommendations. BVA is in concurrence with the recommendations as follows:

- The General Services Administration (GSA) should publish data on Section 508 compliance. While GSA gathers and analyzes Section 508 compliance twice a year, it does not release this analysis to the public or to Congress. Making this data available is vital for policymakers and stakeholders to increase accountability and greater compliance. BVA is encouraged by GSA's commitment to new oversight and transparency of accessibility.
- Oversight of Section 508 from Inspectors General should increase. It is apparent that independent watchdogs are not effective at policing Section 508 compliance. Internal oversight is necessary and will improve compliance in federal agencies and departments. BVA is encouraged by many Inspectors General's reexamining of accessibility by; for example, the VA Office of Inspector General plans to release a report on the accessibility of VA technology within a few months.
- Federal workers and the public should have methods of easy access to reporting noncompliance. As it stands, there are few channels of reporting noncompliant systems and websites, and it is therefore reasonable to assume that the 20 percent compliance of federal government websites is overstated.
- Congress should empower Section 508 officers and/or mandate the creation of Chief Accessibility Officers within departments and agencies. Congress allowed VA to create this office in the MILCON appropriations act of FY23, but VA has refused to do so and BVA now believes it must be mandated for both VA and other federal departments and agencies.
- Departments should broaden the use of human testers to ensure Section 508 compliance and avoid broader pitfalls of untested systems. Human testers are a key component of any quality assurance mechanism and ensure that technical compliance is functionally compliant as well. The lack of human testers in an accessibility test risks site navigation that is both unintuitive and inconvenient for a disabled user.
- Congress should reform Section 508 to include statutory language for people with disabilities, include new and emerging technologies, and target appropriations to improve accessibility. Section 508 has not changed since 1998, when Congress required Federal agencies to make their electronic and information technology accessible to people with disabilities. While the 1998 amendment is responsible for adding websites to Section 508's coverage, the law needs updating as the internet and many technologies we rely on today were in their infancy in 1998.
- Congress should hold federal departments and agencies accountable for noncompliance of Section 508 by increasing oversight during and after the appropriations process. Congress has sparingly engaged in oversight efforts for Section 508 and a lack of oversight has likely worsened the situation.
- Congress should ensure accessibility of its own technology and websites for persons with disabilities. The ability to access and engage with the legislative branch is core to our democracy; by failing to ensure access, democracy itself is limited.

These actions would greatly improve accessibility for the disabled community as a whole and for blinded and low vision veterans in particular.

Title II of the Americans with Disabilities Act

The foundation of the American with Disabilities Act (ADA) was laid with the Rehabilitation Act of 1973 and subsequent amendments. ADA established protections against discrimination for the disabled and began the process of their full inclusion into all levels of society. While federal departments and agencies face difficulties in accessibility for disabled populations, state and local governments are often overlooked. The proposed rules to Title II make important steps forward to protecting and including disabled persons in state and local government.

While data is limited, according to a 2018 study conducted by the Information Technology & Innovation Foundation, only 59 percent of state websites passed accessibility standards while 9 percent of state websites were highly inaccessible. The study reviewed 400 state government websites and found that while 59 percent was the pass rate, the figure varied greatly by the website service. For example, vital records had a pass rate of 74 percent while state tax websites passed at 48 percent and state fishing and hunting licenses at 44 percent. A key finding of the study is that every state had at least one passing website, meaning that every state has a model for improvement and a working example that can provide criteria on which to examine existing sites. While this study has its limitations due to its small scope of 400 websites and, of those, websites with which the public is most likely to interact, it appears to be the most exhaustive publicly available data of the accessibility of state government websites. Accessibility was assessed using AChecker's Web Accessibility Checker, which analyzes URLs to identify accessibility issues based on Web Content Accessibility Guidelines (WCAG) 2.0. While WCAG has three levels of confidence (A, AA, AAA), passing this test means the website is generally compliant with WCAG 2.0 AA standards.

Proposed Department of Justice (DOJ) rules are remedies to shortcomings of the original rules, which require an update to what was set forth in 1990. A key rule proposal is adoption of the WCAG, Version 2.1, Level AA, as the technical standard that state and local governments would need to follow. ADA has standards of design for buildings, such as wheelchair ramps, to ensure that the disabled can access a facility. This proposed rule would establish the equivalent of digital ramps for websites by creating a technical standard from which programmers and website designers can base their work to ensure accessibility.

The second proposal, that of requiring state and local governments' web and mobile applications (app) to comply with the technical standard, would ensure that mobile users are not left behind. According to app intelligence firm Sensor Tower, during the COVID-19 pandemic app usage increased 40 percent (year-over-year April 2019- April 2020). For example, if a state or local government used an app to charge and collect payment for parking, the parking app should have to comply with the technical standard. The reliance on mobile apps is only growing and extending accessibility requirements to them is necessary to ensure equity and inclusion.

Although the proposed rulemaking of Title II of ADA makes important steps in the right direction to ensure access to state and local government online resources, there are problematic exceptions to compliance that must be addressed. These exceptions leave gaping holes in accessibility and

threaten to undermine the potential progress that stands to be made. Exceptions for public school, password-protected course content should not be acceptable. Students who regularly work with disabled parents to complete and review coursework, or students who are disabled themselves, are threatened by this exception. If a parent is unable to access and review coursework, they will not be able to assist their child to the same degree as a nondisabled parent, resulting in harm to the student and the parent. While the proposal would require the content to be accessible if a student is disabled, the requirement should exist for all coursework.

The exception of preexisting conventional electronic documents should have a cutoff date or a usage threshold. Under the proposal, documents that were on the state or local government website or mobile app prior to the rules' enactment, would not have to be compliant. This should have a cutoff date such as January 1, 2010, a date on which all documents prior do not need to be compliant and/or any documents accessed more than a certain number of times by unique users must be made compliant. This is because documents such as marriage licenses, court documents, and other civil documents are often not updated year-to-year by state and local governments but remain in use by their citizens. Further, Senator Casey during the hearing stated an example of a disabled witness, Julian Liberman, being unable to access CDC COVID-19 data during the pandemic. In the DOJ's proposal, it is stated that a spreadsheet of COVID-19 statistics from 2020 would not need to be made compliant. If a document is regularly accessed by the public or it contains information from the recent past that contains information in the public interests, that document should be accessible for the disabled population.

The exception for individualized documents that are password protected should not be enacted. Witness Chris Westbrook, who is blind, testified that he was unable to access and pay his local taxes. If this proposal is enacted, and his locality used password protected documents in lieu of a webpage, he would still not be able to access his taxes. According to the DOJ's proposal, a tax bill is an example of a document that would not need to be made accessible. This proposal should not be accepted because it would prevent a disabled person from receiving critical information and fulfilling their legal obligations.

Thank you for inviting BVA to provide our comments regarding VA's efforts to improve accessibility as well as the proposed rule changes to Title II of the ADA. Should you have any questions or require any further information, please do not hesitate to contact Alek Libbin at alibbin@bva.org or at 202-371-8880 x 338.

Sincerely,

Alek C Libbin

Written Statement of
Communication Service for the Deaf, Inc.
TDI for Access, Inc.
National Association of the Deaf
Deaf Seniors of America, Inc.
National Association of State Agencies of the Deaf and Hard of Hearing

For submission in the record on

Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans

Hearing Before the
U.S. Senate Special Committee on Aging
September 21, 2023

PREPARED BY:

Karen Peltz Strauss
Legal Consultant to
Communication Service for the Deaf, Inc.

Written Statement of
Communication Service for the Deaf, Inc.
TDI for Access, Inc.
National Association of the Deaf
Deaf Seniors of America, Inc.
National Association of State Agencies of the Deaf and Hard of Hearing

Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans

Hearing Before the
U.S. Senate Special Committee on Aging
September 21, 2023

I. Introduction

On behalf of Communication Service for the Deaf, Inc., TDI for Access, Inc. the National Association of the Deaf, Deaf Seniors of America, Inc., and the National Association of State Agencies of the Deaf and Hard of Hearing[1] we submit this testimony to express our wholehearted support for the efforts of the Senate Special Committee on Aging ("Committee") to address accessibility issues faced by individuals with disabilities, particularly how the needs of deaf, hard of hearing, and DeafBlind ("DHHDB") communities should be addressed by Title II of the Americans with Disabilities Act ("ADA") and Section 508 of the Rehabilitation Act. The communication needs of DHHDB communities are not just challenges but fundamental rights, given that effective communication is the gateway to full independence, productivity, and access to healthcare, jobs, education, commerce and other aspects of society. As consumer-driven organizations, we are proud to lead efforts on both a statewide and national level to improve communications access for DHHDB communities. Our testimony urges a comprehensive, proactive approach to ensuring that we have an equal opportunity to benefit from modernized

[1] Appendix A contains brief descriptions of each of these organizations.

digital, Internet, and wireless communication technologies enjoyed by the general public. This approach is aligned with the spirit of Title II and Section 508, both of which emphasize the importance of accessible technology and services for individuals with disabilities.

Although the primary focus of the Committee's inquiry at this time appears largely on access to web content and mobile apps used by local, state and federal government entities, we take this opportunity to call the Committee's attention to the pressing need for the U.S. Department of Justice ("DOJ" or "Department") and Access Board to update their rules and guidelines implementing Title II and Section 508 respectively, to keep pace with current broadband and Internet Protocol ("IP")-based communications technologies needed by people who are deaf, hard of hearing, and DeafBlind, so these populations can effectively communicate with and within public agencies. In this regard, we note that DOJ's Title II rules continue to rely on TTY technology as the primary means of providing effective telephone communication – for communication with government agencies and for accessing 911 emergency services. This is the case notwithstanding the major changes that have been taking place in our nation's communications infrastructure, particularly technology transitions from analog-based landline circuit switched systems to digital, IP-enabled networks that offer an abundance of improvements over their analog predecessors. We further take this opportunity to introduce the Committee to "direct video calling," a modern day IP-based technology that provides the most effective means of achieving real-time communication between American Sign Language ("ASL") users and customer service representatives in government call centers, and therefore should be mandated in the Title II rules and Section 508 guidelines.

II. DOJ Needs to Update its Title II Rules to Ensure Effective Communication by People with Disabilities using Modern Technologies.

DOJ guidance on Title II of the ADA requires state and local governments to "ensure that their communication with people with [communication] disabilities is equally effective as communication with people without disabilities."[2] The purpose of this mandate is to ensure that people with disabilities "can communicate with, receive information from, and convey information to, the covered entity." The key to determining what is needed to achieve effective communication, according to DOJ, is to consider the "nature, length, complexity, and context of the communication and the person's normal method(s) of communication." To achieve this, covered entities must provide auxiliary aids and services as necessary or requested. When selecting an aid or service, Title II entities must "give primary consideration to the choice of aid or service requested by the person who has a communication disability," and must honor that choice unless it would result in an undue burden or fundamental alteration.

Notwithstanding this very clear Title II guidance, DOJ's rules requiring effective communication have not kept pace with evolving communication technologies. These rules continue to require public entities to use "TTYs or equally effective telecommunications systems" to communicate with individuals who are deaf, hard of hearing or have speech disabilities.[3] As such, the regulations urgently need updating to ensure that government entities utilize technologies that can meet the modern needs of DHHDB communities, including IP-enabled 911 emergency services that can respond to calls by text and video; accessible video conferencing services; and direct video calling – each of which are discussed below. This call

---

[2] *Title II – ADA Requirements : Effective Communication* (last updated Feb 28, 2020), available at: https://www.ada.gov/resources/effective-communication/. All passages cited in this paragraph are contained in this technical assistance document.

[3] 28 C.F.R. §35.161 (a).

for agency action requires a swift response, given predictions that wired analog lines capable of supporting prior technologies such as TTYs and analog based captioned telephones will be phased out completely by municipalities across the nation within as little as two years.

Recognizing the need for disability access to evolving communication technologies, in 2010, Congress enacted the 21st Century Communications and Video Accessibility Act ("CVAA"), landmark legislation amending the Communications Act of 1934, which requires people with disabilities to have full access to advanced communications services ("ACS") and other digital communications tools of the twenty-first century.[4] The CVAA defines ACS as interconnected and non-interconnected Voice over Internet Protocol (VoIP) services, electronic messaging services such as e-mail, and video conferencing services.[5] Over the past decade and a half, the Federal Communications Commission ("FCC" or "Commission") has adopted a series of regulations implementing the CVAA to ensure that people with disabilities continue to have communications access as our nation makes its technology transition to a fully IP-based, wireless and fiber infrastructure. These regulatory measures have resulted in a wide range of devices and services that can meet many of our communication needs.

But the steps taken by the FCC address only half the equation. This is because the FCC's jurisdiction only reaches manufacturers and service providers that either develop communication products and services or are engaged in the carriage of communications services. The Commission lacks jurisdiction over entities covered under Title II, namely state and local government entities that interact with the public. Nor does it have authority to impose

---

[4] P.L. 111-260, P.L. 111-265—technical amendments (Oct 8, 2010); 47 U.S.C. §617 (provision on ACS).

[5] 47 U.S.C. §153 (1). Access to these services is required unless it is not achievable. The CVAA further requires that these systems be compatible with assistive technologies used by people with disabilities, unless not achievable.

communication accessibility requirements on federal agencies covered by Section 508. As a consequence, the access provided by the FCC's rules simply stops at the borders of governmental entities.

We pause here to applaud DOJ's efforts to finally address this gap with respect to websites operated by local and state agencies. By way of explanation, in 2011, the FCC adopted rules pursuant to the CVAA requiring Internet browsers on mobile phones to be accessible to and usable by individuals who are blind or low vision.[6] This requires input and output accessibility features on cell phones that create a "virtual ramp" that a person can traverse to get to the web. For example, these rules require that such individuals must be capable of independently entering a URL address, activate home, back, forward, refresh, zoom, and manipulate related phone features. But the CVAA's mandates do not require access to the *content, applications, and services* at the end of this ramp – i.e., what is on the sought-after webpage. DOJ's new Title II proposals for technical web standards will close this loop by ensuring that once the user steps off the ramp and opens a website provided by a local government, he or she will be able to navigate, read, and otherwise interact with all of the governmental services that the site has to offer. As DOJ has aptly noted, these proposals will help ensure the ADA's promise of "equality of opportunity, full participation, independent living, and economic self-sufficiency" for people with disabilities who need access to public services, programs and activities via the web and mobile apps.[7] Thus, in this limited case of websites, once DOJ's Title II rules are adopted, the two halves of the accessibility equation will have been solved: FCC mandates will ensure an

---

[6] 47 C.F.R. §14.61, implementing section 718 of the CVAA, 47 U.S.C. § 618. Under these provisions, Internet browsers must provide accessibility unless doing so is not achievable.

[7] *Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities*, Proposed Rule, 88 FR 51948, 51949 (Aug. 4, 2023).

accessible path to get to local and state governmental websites and DOJ's mandates will require those websites, once opened, to provide access to the critical community information and services they make available. Our organizations appreciate that the proposed rules also will require captioning and other accessibility features that will make web content provided by municipalities and state governments accessible to members of the public who are deaf, hard of hearing and DeafBlind.

Unfortunately, this is not the case for other forms of communication needed by DHHDB communities. As shown in the examples below, DOJ's failure to update its Title II rules for more than 30 years, including its continued reliance on TTY technology, has prevented our communities from benefitting from modern, IP-based and other advanced communication technologies for our communications with and within covered public agencies.

A. Access to 911

In 2014, the FCC adopted rules requiring wireless telephone providers to be capable of transmitting text-based 911 calls to public safety answering points (PSAPs) over their communications networks.[8] These rules were in part adopted to implement the CVAA's directive to the FCC to ensure access by people with disabilities to an IP-enabled emergency network.[9] In 2016, recognizing that TTY technology is no longer an effective means of providing telephone access over IP-based wireless networks, the FCC further amended its rules to allow wireless telephone providers and manufacturers to provide "real-time text" in lieu of

[8] *In the Matter of Facilitating the Deployment of Text-to-911 and other Next Generation 911 Applications, Framework for Next Generation 911 Deployment*, Second Report and Order and Third Further Notice of Proposed Rulemaking, PS Docket Nos. 11-153 & 10-255, FCC 14-18 (2014).

[9] CVAA §106(g). The FCC's text-to-911 rules also were intended to ensure that people could more easily access emergency assistance if their dire situation demanded silence.

supporting TTY technology over their Internet-enabled networks.[10] Real-time text is an IP technology designed for a packet-switched environment that allows text to be transmitted and received on a telephone call as it is generated (typed or spoken and converted into text), without requiring the person generating such text to press "send." As the Commission has explained, real-time text is "a superior accessibility technology to messaging-type text communication services because it provides a more natural and efficient way to meet the communication needs of consumers with disabilities, especially in the event of an emergency, when the need for effective and timely communication with a 911 center is at a premium."[11]

In response to these FCC orders, the number of PSAPs in the United States capable of receiving text-to-911 calls has steadily increased in recent years. However, to date, over 50 percent of all PSAPs still do not have the capability to receive 911 calls via text. The number of PSAPs capable of receiving and supporting 911 calls via real-time text is reportedly even lower. We believe that the reason more have not adopted these modifications to their 911 operations is largely because they have not had a mandate to do so.

The FCC has no jurisdiction over PSAPs – so that while it can mandate the carriage of text messages or real-time text by wireless telecommunications providers to 911 centers, it lacks the authority to adopt a corresponding obligation for these emergency centers to receive, accept and handle text-based calls. Since 1991, DOJ, which *does* have jurisdiction over locally

---

[10] *In the Matter of Transition from TTY to Real-Time Text Technology, Petition for Rulemaking to Update the Commission's Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support of TTY Technology*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 16-145, GN Docket No 15-178, FCC 16-169 (2016). The Commission explained that "[c]hanges to communications networks, particularly ongoing technology transitions from circuit switched to IP-based networks and from copper to wireless and fiber infrastructure, have affected the quality and utility of TTY technology, prompting discussions on transitioning to an alternative advanced communications technology for text communications." *Id*. at ¶3.

[11] *Id.* at ¶15.

operated PSAPs, has not updated its Title II rules on 911 to keep up with evolving technologies. Those rules, more than three decades old, merely require telephone emergency services, including 911 services, to "provide direct access to individuals who use [TTYs] and computer modems"[12] this, despite TTY technology being slow, cumbersome and unreliable in an IP environment – and despite the need for TTY users to take turns to send and receive information on a 911 call – a laborious and dangerous process in an emergency, when every second can count.

TTYs are assistive devices that were largely used by DHHDB communities in the latter part of the 20th century to make telephone calls. The technology, which was invented more than 55 years ago and relies on antiquated Baudot transmissions, provided the first means of enabling people who could not communicate by voice to make telephone calls by typing messages in real-time to one another. TTYs are slow (permitting speeds of only 60 words per minute permit), rely on a very limited character set, and, as noted above, require turn-taking because messaging can take place in only one direction at a time.[13] Most importantly, TTYs have proven to be unsuited for the feature-rich IP-based environment on which most of us now rely. In this environment, packet loss and compression can distort TTY tones and cause echoes and extraneous noises, increasing opportunities for errors and degrading the quality and reliability of the communications.[14] As a consequence, over the past several decades TTY use within DHHDB

---

[12] 28 C.F.R. § 35.162. In this regulation, DOJ uses the term "TDDs," former terminology used to refer to TTYs. In addition the regulation's use of the term "computer modems" refers to ASCII, a computerized form of TTY technology.

[13] *See* 47 C.F.R. § 64.601(9) (defining Baudot as "a seven bit code, only five of which are information bits" and explaining that TTYs using Baudot communicate with each other at a 45.5 baud rate.)

[14] *In the Matter of Transition from TTY to Real-Time Text Technology - Petition for Rulemaking to Update the Commission's Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support of TTY Technology*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 16-145, GN Docket No. 15-178, FCC 16-169 (2016), ¶ 8.

communities has been declining precipitously, creating the urgent need for access to more advanced forms of communication.

DOJ is aware of the limitations and declining use of TTYs. Ten years ago, in January 2013, DOJ acknowledged in a letter to the FCC that TTY users were transitioning away from analog-based TTYs and moving to wireless and IP-based text devices; in that letter, the Department determined that it would be acceptable for PSAPs that had upgraded to an IP system to accept SMS-originated 911 calls as "an equally effective telecommunications system" to TTY technology.[15] But DOJ's failure to update its Title II 911 rules to comport with advanced communication technologies – despite repeated pleas over the years by DHHDB communities – has prevented these communities from having equal access to 911 services, as required by the ADA. Further, unless DOJ updates its Title II rules on 911, DHHDB communities will not be able to benefit from the many IP-based improvements expected to occur with the upcoming roll-out of Next Generation 911 (NG 911) services. NG 911 promises the instant delivery and exchange of multimodal communications in text, data, video and voice that can vastly improve access to and responses from 911 centers to better protect our health, safety and wellbeing in emergencies.

Most importantly, DOJ's ongoing failure to modernize its rules governing effective communication to 911 services by people with disabilities conflicts with its own commitment, articulated in its technical assistance guidance, to provide an opportunity for people with

---

[15] Letter from Eve L. Hill, Senior Counselor to the Assistant Attorney General, Civil Rights Division, DOJ (dated March 8, 2013), filed *In the Matter of Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, Further Notice of Proposed Rulemaking, PS Docket Nos. 11-153 & 10-255, FCC 11-134, citing 28 C.F.R. § 35.161(a). The letter further stated that "PSAPs are required under the existing title II regulation to accept TTY calls from persons with disabilities, even if they originate as SMS calls, subject to the established defenses of fundamental alteration and undue financial and administrative burdens.

disabilities "to benefit from emergency services that is equal to the opportunity afforded to others."[16] It also fails to conform to DOJ's own definition of equal access in emergency situations, *i.e.*, to ensure "that the telephone emergency services provided for TTY users are as effective as those provided for persons who make voice calls, in terms of:

- response time;
- response quality;
- hours of operation; and
- all other features offered (e.g., automatic number identification, automatic location identification, automatic call distribution)."[17]

Without the ability to use modernized forms of text or video communications to reach 911 emergency assistance, people in DHHDB communities have been forced to rely on telecommunications relay services ("TRS"), an indirect form of telephone communication, when emergencies occur. TRS uses relay operators, typically known as "communications assistants," to convert a caller's text or signing into voice for the hearing party to a telephone call and to type or sign back what the hearing party responds, going back and forth until the call is completed. Because of the delays and opportunities for increased misunderstandings and errors that can take place when an indirect form of communication like TRS is used, Congress mandated, and DOJ's rules have always required, "direct access" to telephone emergency services to achieve effective communication for people with disabilities in emergencies.[18] Given the increasing obsolescence

---

[16] Access for 9-1-1 and Telephone Emergency Services (last updated Feb 28, 2020), available at: https://www.ada.gov/resources/access-911/.

[17] *Id*.

[18] 28 C.F.R. §35.162; House Report on the ADA: H. Rep. No. 485 Part 2, 101st Cong., 2d Sess. 84-85 (May 15, 1990) (noting that the nondiscrimination requirements under Title II require "local governments to ensure that [their] telephone emergency number systems are equipment with technology that will give hearing impaired and speech impaired individuals a direct line to . . . emergency services," and further noting that while this initially will mean the use of TDDs [TTYs], "future technological advances . . . may offer other means of affording direct and equally effective access for these individuals." Similar language appears in the ADA's Conference Report. No. 596, 101st Cong., 2d Sess. 67-68 (July 12, 1990).

of TTYs, however, compliance with this mandate can no longer be realized without changes to update and modernize DOJ's Title II rules.

A caveat: Notwithstanding the serious limitations of TTY technology, without other 911 options for direct access, some individuals who need text to communicate still rely on TTYs as their preferred option for emergencies. For these individuals, this technology needs to continue to be supported for 911 access now and until we make a full transition to new technologies capable of providing improved emergency capabilities for DHHDB communities. However, we urge the Committee's assistance in helping to convince DOJ of the need for prompt regulatory action that aligns DOJ's 911 accessibility rules with updated communications technologies, so that going forward, disability communities can fully benefit from the public safety protections promised in the ADA.

B. **Local and State Governments Should be Required to Ensure That Their Video Conferencing Services are Accessible for Internal and External Communications with People with Disabilities**.

Since the COVID pandemic, our nation's reliance on video conferencing services (such as Zoom, Teams, and Webex) to communicate with government agencies, including employers, schools, courts and other public entities, has grown exponentially, often replacing what previously were in-person or telephone communications and becoming a vital form of everyday communication. The Communications Act, as amended by the CVAA, defines interoperable video conferencing services as services that provide "real-time video communications, including audio, to enable users to share information of the user's choosing."[19] In June of this year, the FCC adopted rules to ensure that interoperable video conferencing services are fully accessible and usable by people with disabilities under the Commission's existing rules governing advanced

[19] 47 U.S.C. §153(27).

communication services.[20] In the same proceeding, the Commission proposed new rules to integrate telecommunications relay services and other accessibility features needed to ensure the accessibility of these services into video conferencing systems. We call upon the Committee to ensure that DOJ similarly updates its Title II rules so that local and state governments utilizing video conferencing services — for both internal communications with employees and external communications with the public — use forms of this technology that are both accessible to and effective for people with disabilities.

C. Direct Video Calling

Direct Video Calling (DVC) is a service conducted via video over IP-based networks that enables callers who use ASL to communicate directly and in real-time with ASL-fluent customer service agents who have been trained by their respective government agencies to provide call center assistance.[21] Just as it is commonplace for many call centers to offer hearing consumers a choice of their preferred language (English, Spanish, etc.), DVC enables ASL users to confer one-on-one with consumer representatives in the language to which they are most accustomed – without the need for an interpreter or a TRS communications assistant - creating a communications experience that is parallel to voice telephone services used by the general

---

[20] *In the Matter of Access to Video Conferencing, Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Notice of Proposed Rulemaking, and Order, CG Docket Nos. 23-161, 10-213, 03-123, FCC 23-50 (2023). *See also* 47 C.F.R. Part 14 (containing performance standards for advanced communications services that will apply to interoperable video conferencing services a year after the effective date of the FCC's order).

[21] The FCC has referred to this service as "direct video customer support," and specifically defines it as a "telephone customer support operation that enables callers with hearing or speech disabilities to engage in real-time direct video communication in ASL with ASL speakers in a call center operation." 47 C.F.R. § 64.601(a)(16). While DVC has been used in both governmental and private company settings, for purposes of this testimony DVC refers exclusively to the use of DVC by local, state and government entities.

public. In the case of communications with government agency call centers, DVC can empower sign language users to more swiftly and effectively get information about and resolve matters concerning benefits, taxes, civic affairs, schooling, judicial and other governmental services.

At the time that the Title II rules were first adopted in 1991, the only way for people in DHHDB communities to communicate with government agencies was by using TTYs. As noted above, because of its many drawbacks, TTY technology is no longer used by most people with disabilities or governmental facilities. Rather these individuals typically must use TRS to reach public call centers, which, as explained, utilizes communications assistants to relay messages back and forth between the calling parties. Video relay service (VRS), an IP-based form of TRS, offers a vast improvement for ASL users over text-based forms of TRS, in that it uses online sign language interpreters to interpret telephone communications between the parties. Indeed, this method of communication remains an important and valuable form of communication for ASL users across the United States – especially for calls to friends, families, colleagues, professional services and other destinations that do not have call centers. However, VRS is no longer the only type, nor the most effective type, of telephone communication that can take place between ASL users and customer service representatives in contact centers. This is because VRS still relies on the exchange of information through a third person, potentially compromising the accuracy, speed, and effectiveness of these calls, which can often be long and involve the exchange of complicated information.

By contrast, DVC enables dialogue to occur *directly* between two people who both sign (one of whom is the call center agent), thereby allowing the ASL-fluent caller to converse far more naturally, expressively and effectively, as well as to use facial, bodily and other visual cues to facilitate the conversation and contribute to a swifter, more productive resolution of the

concerns being conveyed.[22] ASL-fluent call center agents themselves are typically deaf native ASL users, and so they also are more familiar with subtle differences in the use of sign language, including regional ASL "accents," as well as the nuances of Deaf culture that might improve a call's handling and resolution. In this regard, the FCC has recognized that when "call takers are members of the deaf community themselves, the risk for mistranslations between ASL and English is eliminated, and thus the risk for costly and frustrating misunderstandings is also greatly reduced, if not eliminated."[23] DVC also reduces the likelihood that governmental agency representatives will reject TRS or VRS calls from ASL users that involve confidential matters. Notwithstanding that it is a violation of the ADA to reject a TRS call,[24] some customer service agents remain reluctant to converse about confidential matters when a third party (in this instance, a communications assistant) is present.

That DVC achieves a far more equitable communications experience than VRS in communications with call centers was recently acknowledged in a report to the FCC by its formal Disability Advisory Committee. After walking through DVC's many benefits, the report recommended that the Commission "work with the General Services Administration and other oversight agencies for assistance in reaching out to federal agencies whose constituencies could

---

[22] The W3C Web Accessibility Initiative (WAI) explains that "[b]ecause sign language provides the ability to provide intonation, emotion and other audio information that is reflected in sign language interpretation, but not in captions, sign language interpretation provides richer and more equivalent access . . . " https://www.w3.org/WAI/WCAG21/Understanding/sign-language-prerecorded.html. *See also* National Institute on Deafness and Other Communication Disorders, *American Sign Language*, available at: https://www.nidcd.nih.gov/health/american-sign-language#2. (noting that ASL has grammar that differs from English).

[23] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Structure and Practices of the Video Relay Service Program,* Order and Declaratory Ruling, CG Docket Nos. 03-123, 10-51, 32 FCC Rcd 775 at 779, ¶ 9 (WCB, CGB January 18, 2017).

[24] 28 C.F.R. § 35.161(c) (requiring public entities to respond to TRS calls in the same manner that they respond to other telephone calls).

benefit from DVC."[25] Likewise, the FCC itself has developed a substantial record documenting DVC's enhanced ability to meet the linguistic and cultural needs of sign language users as well as its ability to reduce the risk of misunderstandings and errors as compared to a third party relay service.[26]

The need for accurate information when interacting by phone with governmental call centers becomes even more compelling when such information involves complex subjects, technical matters, or solutions addressing the caller's individualized needs. The more complicated the content, the less effective is reliance on third party TRS communication assistants, and the more direct communication in ASL is needed to achieve communications equality for sign language users.[27] In particular, DVC is the best means of achieving effective and direct communication for calls made to first responders in 911 dispatch centers (public safety answering points),[28] firefighters, law enforcement officers, self-help and crisis hotlines that offer services such as mental health counseling and suicide prevention, pandemic information lines, and other municipally supported services that address urgent and emergency situations. In such exigent circumstances communication is far more effective when it is conducted person-to-person without the distraction, potential misinterpretations, or delays that can result when a third party is used to relay communications between the parties.

---

[25] Recommendation of the Federal Communications Commission Disability Advisory Committee on Direct Video Calling, adopted by the Disability Advisory Committee on September 7, 2023, p. 10.

[26] *See generally* CG Docket Nos. 10-51 and 03-123.

[27] For example, various accessibility organizations have recommended to the FCC that DVC be used for telephone communication by ASL users who need to call broadband providers to inquire about discounted broadband service through the FCC's Affordable Connectivity Program, https://www.fcc.gov/acp, because these calls often involve complicated matters, such as Internet speeds, latency, network management practices, pricing, and contractual terms.

[28] As noted above, presently over 50 percent of 911 emergency dispatch centers do not offer a direct form of communication technology that is accessible to people in DHHDB communities.

DVC also reduces privacy, security, and other confidentiality concerns that might arise on some TRS calls, notwithstanding the strict requirements for TRS confidentiality in the FCC's TRS regulations.[29] This is particularly true when Social Security numbers, medical data or financial information, including credit card and bank account numbers, are shared over the phone.

DVC has the added benefit of providing customer service job opportunities for deaf Americans who are disproportionately unemployed.[30] This helps fulfill other goals of the ADA that are designed to promote equal opportunities to employment by people with disabilities.

Last, because of its improved efficacy in resolving matters more quickly, accurately and completely, DVC also results in shorter calls and fewer callbacks that might otherwise be needed to effectively address a consumer's concerns. The FCC experienced this with respect to its own DVC line that handles complaints and inquiries directed to its Disability Rights Office. Within months after its inauguration, the Commission found that DVC calls were approximately 42% shorter than calls previously handled through VRS. In addition to achieving better service for consumers with disabilities, these efficiencies produce cost savings for public agencies.

Advances in IP technology now make DVC both feasible and effective. Using high-speed broadband connections, certain local, state, and federal agencies have easily set up DVC networks without compromising security. For example, DVC pilot programs have been run by

---

[29] *See* 47 U.S.C. §225(d)(1)(f); 47 C.F.R. §64.604(a)(2) (prohibiting CAs from disclosing the content of a relayed conversation, and with limited exceptions, keeping records of a conversation beyond the duration of a relayed call).

[30] At present, the deaf community currently faces a 70% rate of unemployment or underemployment, causing many in this community to rely on government assistance programs. https://gallaudet.edu/signing-ecosystem The FCC has rightfully emphasized that DVC can increase the number of people with disabilities in the workplace when the customer agents hired are native users of ASL. *See FCC's Direct Video Calling Primer* at 9, available at: https://www.fcc.gov/direct-video-calling-dvc.

the Small Business Administration, the Equal Employment Opportunity Commission, and the Census Bureau.[31] The Federal Emergency Management Administration has announced plans to begin providing DVC in the coming year. In addition, DVC is now technically possible for calls to three-digit numbers: in September 2023, the Substance Abuse and Mental Health Services Administration rolled out an ASL line for callers to reach trained counselors staffing its 988 Suicide and Crisis Lifeline.[32] The same type of telephone access can be achieved for 911 services.

The newly proposed Title II regulations are designed to provide equal access to state and local services, programs, and activities provided via the web and mobile apps. Such access is long overdue, and we agree with DOJ's statements that it would not be appropriate to require people with disabilities to access information only by telephone where it is available on the web for everyone else.[33] However, where local and state agencies do set up call centers to provide the public with an opportunity to get information about their benefits, services, programs and activities – or other live chat options that can be accessed via online government websites[34] – government contact centers that handle those calls should be equipped with DVC to ensure effective communications for ASL users. This is particularly important for emergency and essential services. Just as the new web accessibility requirements are designed to further the

---

[31] These pilot programs were unfortunately short-lived, likely due to the lack of outreach provided by these agencies.

[32] *988 Suicide & Crisis Lifeline Adds American Sign Language Services for Deaf and Hard of Hearing Callers* (Sept. 8, 2023), available at: https://www.samhsa.gov/newsroom/press-announcements/20230908/988-suicide-crisis-lifeline-adds-american-sign-language-services-deaf-hard-of-hearing-callers.

[33] *See* 88 FR 51953, noting that DOJ no longer believes that 24/7 staffed telephone lines can provide equal access to people with disabilities, especially where websites or mobile apps enable members of the public to get information or request a service within just a few minutes.

[34] *See* 88 FR 51954 (noting that "people can now take part in live chats with government officials on the websites of State and local government entities").

ADA's goal of ensuring "equality of opportunity, full participation, independent living, and economic self-sufficiency" for people with disabilities,[35] so too is full communication access via DVC needed to achieve this goal for sign language users in call center environments.

State and local agencies provide an abundance of critical services to the public, including information and assistance with unemployment benefits, health insurance, food assistance; guidance on school, educational and training programs; the provision of law enforcement, public transportation and waste management services, and more.[36] ASL users, like other members of the general public, rely on these and other governmental services that are essential to their daily lives and well-being. They should be able to communicate in their own language to access critical information about these services. We urge amendment of DOJ's Title II rules to achieve this outcome through DVC.

III. The Access Board Needs to Update its Section 508 Accessibility Guidelines to Ensure the Accessibility of Modern Communications Used By and With Federal Agencies.

Section 508 requires electronic and information technology that is developed, maintained, procured and used by federal agencies to be accessible to federal employees with disabilities and members of the public interacting with these agencies. Among other things, this law requires that people with disabilities have the same or comparable access to the information, data and services as is made available to people without disabilities. Over the years, the Access Board has

---

[35] 88 FR 52014.

[36] As DOJ explains, the public looks to state and local government entities for vital information about matters that include, for example, "recreational and educational programs, school closings, State travel restrictions, food assistance and employment, guidance for health care providers, and workplace safety." 88 FR 51954-55. *See also FCC Direct Video Calling Primer* at https://www.fcc.gov/direct-video-calling-dvc (noting that DVC can be especially helpful if an organization provides social, health, employment or rehabilitation services, educational institutions and training centers, hotlines and 311 connections to information services, among other programs and services).

periodically updated its Section 508 standards to reflect technological advances, with the most recent update having been published on January 18, 2017.[37]

Notwithstanding these efforts to keep pace with evolving technologies, we call upon the Access Board to again bring its Section 508 rules up to date to ensure that federal agencies are using the most effective and modern communication technologies for DHHDB communities.[38] Updated rules should include guidelines requiring federal agencies to provide accessible video conferencing services and DVC when communicating with the public – the latter where federal agencies otherwise have call centers for the distribution of information and assistance to members of the public about their benefits, services, programs, and activities.

Without DVC, ASL users have had to rely on VRS to communicate with federal government agencies that have publicly facing call centers, such as the Social Security Administration (SSA), the Internal Revenue Service (IRS), 1-800-MEDICARE, the U.S. Postal Service and Healthcare.gov.[39] Understanding the superior effectiveness and efficiencies of DVC, over the past decade, the FCC has made concerted efforts to encourage and facilitate the integration of DVC into federal government agency contact centers.[40] However, nearly a decade

---

[37] 36 C.F.R. Part 1194.1; 82 FR 5832, Jan. 18, 2017.

[38] *See* 36 C.F.R. Part 1194.1, Appendix D - D1194.23(a), (b), (c), and (e) (Telecommunications Products).

[39] *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8708 ¶ 223 (2013).

[40] *Structure and Practices of the Video Relay Service Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 3396,* 3403, ¶ 11 (noting the "major opportunity to enhance the ability of sign language users to engage in more effective, efficient, and private communication with customer support—especially because so much of VRS traffic involves calls placed to the customer support call centers of large businesses and government agencies."). Among the many steps taken by the FCC to facilitate the provision of DVC, the Commission has: (1) approved the use of 10-digit numbers for point-to-point calls that use VRS platforms; (2) created an open app to facilitate DVC by federal agencies; (3) set up a process for approving applicants interested in providing DVC; (4) hosted various forums and presented at conferences to educate federal agencies

after the FCC first put into place its own DVC center and initiated these extensive outreach efforts, the Commission remains the only federal agency that provides an ASL line for callers who are reliant on sign language, despite the many other agencies that handle large volumes of calls from ASL users who are deaf or hard of hearing, such as SSA, IRS, the U.S Postal Service, Office of Personnel Management, and the Centers for Medicaid and Medicare Services of the U.S. Department of Health and Human Services. By way of further example, although the General Services Administration hosts the USAGov Contact Center (1-844-USA-GOV1) for general questions about federal governmental programs and services, and offers these telephone services in Spanish along with English, this information line too lacks an ASL option.[41] This is the case even though GSA's corresponding website directs the public to various government telephone numbers that provide a range of vital information about, and services related to, governmental benefits, insurance, caregiver support, jobs and education.[42]

One reason that federal agencies may be reluctant to adopt DVC is that VRS is perceived to be a free and acceptable alternative for communicating with ASL users. However, this assumption fails to recognize the vastly improved communications experience DVC can provide for ASL users. Revised Section 508 rules can play a critical role in turning around this trend by directing the availability of DVC in federal agencies with active call centers.

IV. Conclusion

---

about DVC; and (5) tasking its Disability Advisory Committee with developing recommendations to, among other things, enhance the use and deployment of DVC services in government agencies.

[41] *See* https://www.gsa.gov/buy-through-us/purchasing-programs/shared-services/technical-administrative-other-solutions/contact-center-services/usagov-contact-center-and-1844usagov1

[42] *See* https://www.usa.gov/disability-services. An example is the webpage to apply for Social Security Disability Insurance, which only provides a voice and very outdated TTY number. *See* https://www.ssa.gov/benefits/disability/apply.html

Digital forms of communication continue to transform the way our nation communicates. Improvements in high speed IP-based services, coupled with the growing availability of broadband services to communities all over America, have made services such as video conferencing a routine part of our daily routines. Similarly, for the first time in our history, direct video calling can enable people with disabilities who rely on ASL to have one-on-one conversations with governmental call center representatives in their own language, directly and in real-time – finally giving these individuals the opportunity to communicate with public agencies in a manner equal to those using spoken or written words. We urge the Committee to exercise its leadership by working with DOJ and the Access Board to bring their Title II rules and Section 508 guidelines in line with these and other modern communications tools, so that people with disabilities can use these transformative technologies to achieve effective communication with local, state, and federal agencies.

APPENDIX – ORGANIZATIONS SUBMITTING TESTIMONY (in alphabetical order)

Communication Service for the Deaf, Inc. (Chris Soukup, CEO) is a global leader in the provision of telecommunications access for people who are Deaf, Hard of Hearing, and DeafBlind. Since 1975, CSD has been dedicated to facilitating independent living within deaf communities by developing and ensuring the accessibility of communication solutions essential for fostering constructive, inclusive, and self-reliant lifestyles.

Deaf Seniors of America, Inc. (Phil Aiello, President) advocates for Deaf, DeafBlind, deaf disabled, hard of hearing, and late-deafened seniors, providing information and educational programs designed to enhance their physical, economic, and social well-being.

The **National Association of State Agencies of the Deaf and Hard of Hearing** (Robert Cooper, President) is composed of administrators of the state agencies serving people who are deaf and hard of hearing. Its purpose is to function as the national voice of state agencies serving Deaf and Hard of Hearing people and promote the implementation of best practices in the provision of services.

The **National Association of the Deaf** (Howard Rosenblum, CEO and Director of Legal Services) is the nation's premier civil rights organization of, by and for more than 48 million Deaf, DeafBlind, DeafDisabled, Hard of Hearing and Late-Deafened individuals in the United States of America. The NAD's mission is to preserve, protect, and promote the civil, human and linguistic rights of these 48 million individuals in this country. Founded in 1880, the NAD has advocated for these civil, human, and linguistic rights in all parts of society including to ensure access to technology, telecommunications and the Internet. The NAD has state association affiliates in virtually all 50 states and the District of Columbia, and its efforts reach all parts of the country and all aspects of life.

TDI for Access, Inc. (AnnMarie Killian, CEO), in collaboration with its partners, serves as a national leader in policy, advocacy, education, and innovation to foster full accessibility, equity, and inclusion in Information and Communications Technology.

Eric Hysen
Chief Information Officer
U.S. Department of Homeland Security

STATEMENT FOR THE RECORD

United States Senate
Special Committee on Aging

FOR A HEARING ON

"Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans"

September 21, 2023
Washington, DC

Chairman Casey, Ranking Member Braun, and distinguished Members of the Committee, thank you for allowing the Department of Homeland Security (DHS) and the Office of the Chief Information Officer to provide this written Statement for the Record in support of the United States Senate Special Committee on Aging, and specifically for this important hearing, *Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans*.

Imagine if you were in a natural disaster, but you were unable to access vital information that could mean the difference between life and death. Or, what if you wanted to apply for a job, but you were unable to complete the necessary forms. These are just two of countless examples persons with disabilities face because digital content may not be accessible.

With a focus on digital transformation, government and private industry are migrating products and services online. The workforce is increasingly dependent on virtual platforms for completing work tasks and providing services. Individuals are shifting to digital content and social media platforms to consume information and interact with others.

Moving to a digital world has numerous advantages. However, it can leave those with disabilities at a disadvantage, especially when they need government services. If a person with a disability is unable to use their assistive technology (AT) to access electronic content, websites, and software applications, they might miss out on education and employment opportunities, social interactions, or essential services. By ensuring that information and communication technologies (ICT) are accessible, life limiting barriers are reduced.

The private sector simply cannot replace government services. The federal government often helps people at moments when they are experiencing their greatest need. It is crucial that we meet every member of the public, where they are, by ensuring that our services are safe, trustworthy, useful, usable, equitable, and accessible.

For example, 25 million Americans experience life-changing disasters every year. Some portion of those survivors are persons with disabilities. Digitally available services are frequently a literal lifeline for anyone who needs them. But, if we can make federal government services fully accessible to people with disabilities, we can serve everyone more equitably.

Trusted Tester Program

The Office of Accessible Systems & Technology (OAST) guides and supports all DHS components in removing barriers to information access and employment of qualified individuals with disabilities in accordance with the requirements of Section 508 of the Rehabilitation Act of 1973 (as amended). OAST provides strategic direction, governance, technical support, and training to ensure Department employees and customers with disabilities have equal access to information and data. OAST strives to ensure that ICT procured, developed, maintained, or used by the Department is accessible to employees and customers with disabilities through a range of policy, training, technical assistance, governance, and compliance activities.

In 2009, DHS established the Trusted Tester Program. It was the first, and remains the prevailing, code-based accessibility test process that aligns with Section 508 of the

Rehabilitation Act of 1973 (as amended) and World Wide Web Consortium's Web Content Accessibility Guidelines.

Program success is widely attributed to the problems it solves. In the past, applications were mainly evaluated for accessibility using specially configured AT, such as screen readers. Test results were inaccurate, user experience was inconsistent, and developers often had to create custom scripts to ensure that AT was compatible with applications.

Through the Trusted Tester Program, trained testers use a combination of testing tools and visual verification to evaluate Internet application code quickly and accurately for accessibility. This repeatable and reliable test process does not require AT or custom system configurations. Instead, it allows system owners to identify and fix Section 508 code violations, which can lead to a consistent user experience, regardless of the type of AT used.

The Trusted Tester Program is recommended as a best practice by the U.S. Access Board and the General Services Administration. The program provides a free, online, self-guided certification course that teaches individuals how to use a combination of automated and manual testing to evaluate web content for Section 508 conformance. Additionally, individuals have free access to automated testing and reporting tools that aid in evaluating products and generate test reports. Lastly, individuals can take advantage of the Community of Practice that provides support coupled with the latest guidance on testing techniques.

The Trusted Tester Program is inclusive. Persons with and without disabilities can become Trusted Testers themselves. The certification course is free and available to government employees and the public.

Although the Trusted Tester program is successful in identifying accessibility problems, which leads to solutions, accessibility is more than compliance with laws and standards. You can deliver a product that meets a standard but is still hard to use. True accessibility improves the usability of products and services by focusing on human-centric design that not only ensures AT works with a product, but the product also works for the person using it.

Conclusion

We have come a long way since passage of the Rehabilitation Act of 1973 (as amended) and the Americans with Disabilities Act of 1990 (as amended). Technology available then, to enable access to government services, looks nothing like it does today. As technology evolves, DHS will continue to lead the way in exploring innovative solutions and programs to enhance access to government technology for everyone.

Statement of Sachin Dev Pavithran
Executive Director, United States Access Board
For the Senate Committee on Aging
Unlocking the Virtual Front Door: Ensuring Accessible Government Technology
For Individuals with Disabilities, Older Adults, and Veterans
September 21, 2023

Introduction

I am Sachin Dev Pavithran, and I am the Executive Director for the United States Access Board (Access Board). The Access Board is an independent, federal micro-agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards. Section 508 of the Rehabilitation Act, which requires all information and communication technology (ICT) procured, maintained, or used by the federal government be readily accessible to and usable by individuals with disabilities, charges the Access Board with developing accessibility requirements for ICT and providing technical assistance on Section 508 to federal agencies (29 U.S.C. § 794d). ICT includes a wide range of technology, such as software applications, websites, hardware, and multimedia. In 2017, the Access Board published a final rule updating the Section 508 standards that were initially published in 2000. *See* 82 FR 5790 (Jan. 18, 2017).

In today's digital age, access to ICT is essential for many aspects of life, including emergency notifications, education, employment, government services, healthcare, and communication. Without accessible ICT, people with disabilities can be excluded from these opportunities. Accessible ICT also ensures that older individuals can continue to use technology effectively.

For over twenty years, Section 508 compliance at federal agencies has varied significantly. Therefore, we are grateful for, and want to acknowledge, the Senate Special

Committee on Aging's attention to the accessibility of ICT at the U.S. Department of Veterans Affairs and throughout the federal government. Your work has generated significant Section 508 awareness during the last year.

Current Assessment of Section 508 Compliance

In February 2023, the Department of Justice issued its first Section 508 report in 10 years. As Senator Casey stated, "despite over a decade of technological evolution, many federal government agencies have not made efforts to improve and better integrate Section 508 compliance and ensure the federal government's resources are available for people with disabilities, including taxpayers and federal workers."

Section 752 of the Consolidated Appropriations Act of 2023 generated even more awareness by requiring all federal agencies subject to Section 508 to evaluate the level of ICT accessibility. The Office of Management and Budget (OMB) in close coordination with the General Services Administration (GSA), the Access Board, and the White House Office of Science and Technology Policy (OSTP) established robust assessment criteria and instructions to which agencies must submit responses annually.

The deadline for agencies to submit responses to the assessment was August 11, 2023. GSA and the Access Board are currently analyzing the self-reported data. GSA, in consultation with OMB, will submit a report by December 2023 which will include a comprehensive assessment of compliance by each agency and the Federal Government as a whole.

Current Enforcement

Self-enforcement of Section 508 compliance by agencies has had minimal success. As revealed by providing technical assistance for the assessment, some agencies were not even

aware that Section 508 was a requirement. With such inadequate knowledge, responding accurately to some of the assessment questions would have been extremely difficult. Also, the number of Section 508 complaints filed by employees and members of the public is small. We believe that most employees and members of the public are unaware of how to file a Section 508 complaint and suspect that most employees file complaints concerning inaccessible ICT with agency EEO offices as part of a complaint for denial of reasonable accommodation. It is not clear that agency EEO offices have, or should be expected to have, the requisite expertise to identify and address Section 508 complaints, particularly when they may not even be identified as such by an employee. Handling these complaints requires skills and legal analysis different from what is required to address a complaint for failure to provide a reasonable accommodation. Although we believe that reporting, self-assessments, and technical assistance are critical, a robust enforcement process is a necessary complement. It is not clear that current processes are sufficient to address recurring Section 508 compliance issues.

Importance of Employee Training on ICT Accessibility

In order to ensure an accessible federal workplace and government services to the public, agency Section 508 efforts must be a part of the full life cycle of procurement and the development and deployment of accessible ICT products. Some agencies have dedicated resources to ensure Section 508 compliance standards are met, while others have none. All federal employees, relative to their positions, should have enough knowledge to ensure their work products are accessible. The ability to create an accessible email, a policy document, or a set of presentation slides should be a normal expectation in our daily work.

Acquisition professionals at all levels, including purchase card holders, contracting officers, and contract specialists, should have the knowledge and means to ensure that products purchased on behalf of a federal agency are fully accessible and usable by federal employees with disabilities and members of the public.

Section 752 of the Consolidated Appropriations Act of 2023 provides a key opportunity to better understand agency accessibility efforts and shortcomings, based on self-reported data. While data analysis is currently underway, we already know that some agencies are better resourced than others for Section 508 compliance. During the assessment's reporting submission window, we learned that some agencies have never performed Section 508-related activities before and were not aware of the requirements prior to the assessment. Preliminary review of the submitted data indicated that some agencies did not understand Section 508 and what was being asked in the annual self-assessment. Further, we are seeing that small and micro agencies often do not have the budget for dedicated Section 508 resources, such as staffing and training.

Collaboration Between the Access Board and GSA

The Access Board continues to work closely with GSA to provide technical assistance for Section 508. In response to the shortfalls identified by the new annual assessment, we anticipate an expanded need to help address agency shortfalls, to expand staff training, and to support improved enforcement of Section 508. GSA and the Access Board collaborate daily, but must depend on other agencies as well to address the myriad of needs.

We also have developed conformance testing for government websites. Yet, additional conformance tests are still needed to address software and hardware procured and developed by federal agencies.

Conclusion

Thank you for allowing me to submit this statement on behalf of the Access Board. I hope that it is helpful to the Committee on its work in the critical area of accessible government technology.

ITIF | INFORMATION TECHNOLOGY & INNOVATION FOUNDATION

September 28, 2023

Mr. Douglas Hartman
Research and Policy Analyst
Chairman Bob Casey
U.S. Senate Special Committee on Aging
G-16 Dirksen Senate Office Building
Washington, DC 20510

Chairman Casey, Ranking Member Braun, and members of the committee, we appreciate the opportunity to share with you our thoughts on the recent hearing "Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans." ITIF is a nonprofit, nonpartisan think tank whose mission is to formulate and promote public policies to advance technological innovation and productivity. In this statement, we are highlighting an important point on the topic of accessibility in federal technology that we believe was missed in last Thursday's hearing, namely federal agencies' continued noncompliance with the 21st Century Integrated Digital Experience Act (IDEA).

Many federal websites do not comply with Section 508 requirements, meaning that a particular subset of vulnerable users who rely on government programs like unemployment insurance and Medicare face undue challenges when trying to access federal digital services. As the committee is aware, Congress amended Section 508 of the Rehabilitation Act in 1998 to require federal agencies to develop, procure, maintain, and use electronic and information technology (EIT) that is accessible to people with disabilities. And yet, according to the Federal IT Dashboard, only 31 percent of federal websites have "no detectable accessibility issues"—meaning that the majority of federal websites have one or more problems that prevent the website from being accessible.[1] Furthermore, a recent report from the Department of Justice (DOJ) found that Section 508 program maturity is largely stagnant, with only six agencies meeting acceptable levels of maturity according to five metrics focusing on IT acquisition, IT lifecycle, testing, complaints processing, and training.[2] In short, the federal government is currently failing to ensure its technology is accessible for people with disabilities, older adults, and veterans.

Congress passed 21st Century IDEA to improve executive agency digital services, including modernizing websites to be accessible to individuals with disabilities per Section 508.[3] Specifically, the law requires agencies to comply with the website standards of the Technology Transformation Services of the General

1 "Federal Website Metrics," U.S. General Services Administration, accessed September 25, 2023, https://www.itdashboard.gov/federal-website-metrics.
2 U.S. Department of Justice (DOJ) and U.S. General Services Administration (GSA), Section 508 Report to Congress and the President: Accessibility of Federal Electronic and Information Technology, (Washington, DC: DOJ, May 2023), https://www.justice.gov/crt/page/file/1569331/download.
3 U.S. Congress, House, 21st Century Integrated Digital Experience Act (IDEA), H.R.5759, 115th Cong., introduced in House May 10, 2018, https://www.congress.gov/bill/115th-congress/house-bill/5759.

Services Administration.[4] These standards, called the U.S. Web Design System (USWDS), incorporate the requirements of the Web Content Accessibility Guidelines (WCAG), the international guidelines for making web content more accessible that is now in version 2.1.[5]

Essentially, by complying with 21st Century IDEA, agencies are also complying with WCAG requirements and thus greatly improving overall accessibility in their digital services. 21st Century IDEA also focuses on standardization and consistency in government websites, including in searchability and content, which produces better user experiences for everyone. In fact, 21st Century IDEA is based on inclusive design principles, effectively elevating user experience and accessibility to the same level as security.[6]
Fortunately, the Office of Management and Budget (OMB) finally released guidance last Friday for agencies to deliver on the implementation of 21st Century IDEA.[7] Such guidance was not only a critical missing piece in progressing implementation of the law, but it also greatly prioritizes accessibility by emphasizing the inclusion of people with disabilities during usability testing and conducting inclusive research. As witness Ronza Othman, President of the National Association of Blind Government Employees, explained during last week's hearing, people with disabilities have been historically excluded from the development of government technologies. As ITIF has found in its past research on the accessibility of state government websites, "states that performed the best on accessibility engaged directly with people with disabilities to test and provide feedback on their sites."[8] OMB's guidance for 21st Century IDEA rightly includes this population as a partner.[9]

Finally, ITIF has previously recommended other actions to support improvements in federal website accessibility, including evolving section508.gov from a passive information hub to a fully-fledged federal accessibility lab and developing well-resourced agency-level 508 offices that will continue to drive the accessibility components of 21st Century IDEA and OMB guidance.[10] Importantly, these offices should

---

4 "Website standards," U.S. General Services Administration, accessed September 25, 2023, https://designsystem.digital.gov/website-standards.
5 "Accessibility," U.S. General Services Administration, accessed September 25, 2023, https://designsystem.digital.gov/documentation/accessibility; "Web Content Accessibility Guidelines (WCAG) 2.1," World Wide Web Consortium (W3C), last modified September 21, 2023, https://www.w3.org/TR/WCAG21.
6 Christine Sket, "21st Century IDEA Begins with Accessibility," Braille Works, March 24, 2022, https://brailleworks.com/21st-century-idea-begins-with-accessibility.
7 Office of Management and Budget (OMB), Executive Office of the President, "Delivering a Digital-First Public Experience," OMB Memorandum M-23-22, (Washington DC: OMB, September 22, 2023), https://www.whitehouse.gov/wp-content/uploads/2023/09/M-23-22-Delivering-a-Digital-First-Public-Experience.pdf.
8 Daniel Castro and Michael McLaughlin, "Benchmarking State Government Websites" (ITIF, August 2018), https://www2.itif.org/2018-benchmarking-state-government-websites.pdf.
9 U.S. Senate Special Committee on Aging, "Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans," 117th Cong. (2023) (testimony of Ronza Othman), https://www.aging.senate.gov/imo/media/doc/6cd5012e-9f30-cc21-fdf7-cdad34a8ff0a/Testimony_Othman%209.21.2023.pdf.
10 Eric Egan, "The Federal Government Needs to Actually Report on and Improve Accessibility for its Websites," ITIF, July 25, 2022, https://itif.org/publications/2022/07/25/the-federal-government-needs-to-report-and-improve-accessibility-for-its-websites.

ITIF | INFORMATION TECHNOLOGY & INNOVATION FOUNDATION

provide a clear point of contact regarding user accessibility issues and complaints for both citizens and federal employees.

In conclusion, we appreciate the opportunity to provide our insights on accessibility in government technology. While the committee members and witnesses made many good points on this topic, we believe compliance with 21st Century IDEA is a critical component in improving the widespread adoption and accessibility of federal digital services. Now with guidance from OMB and support from this committee, agencies should immediately prioritize implementing the law and making needed improvements to technology accessibility to ensure federal digital services are accessible to all.

Eric Egan
Policy Fellow
Information Technology and Innovation Foundation (ITIF)

Statement for the Written Record
from the
Perkins School for the Blind

Special Committee on Aging
United States Senate

Hearing on:
Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans

September 27, 2023

Chairman Casey, Ranking Member Braun, and Members of the Senate Special Committee on Aging:

Perkins SCHOOL FOR THE BLIND

On behalf of Perkins School for the Blind ("Perkins"), we appreciate the opportunity to provide a written statement for the record in connection with the Senate Special Committee on Aging's ("Committee's") hearing, "Unlocking the Virtual Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans," held on September 21, 2023. We are grateful for the Committee's interest and focus on this important issue to ensure that individuals with disabilities have access to information and communications technology necessary to engage civically and participate in government and non-governmental services, programs, and activities.

Perkins, founded in 1829, was the first school for the blind in the United States. Today, Perkins is the worldwide leader in education services for children and young adults who have multiple disabilities and visual impairments. Perkins provides educational services that build productive, meaningful lives for children and adults around the world who are blind, deafblind, or visually impaired, including those with additional disabilities. We have helped families, teachers, schools, and governments see what's possible, and we share what we've learned over the course of our nearly 200-year history: that every person can successfully contribute to their community, given the right support. Perkins' programs and services have impacted the lives of over 500,000 infants, toddlers, school-age students, and adults on our Watertown, Massachusetts campus, in the community, and in 67 countries around the world.

Perkins also partners with organizations of all kinds to help them create digital products, services, and experiences — websites, apps, multimedia and beyond — that engage and include all people, regardless of their abilities. Digital accessibility is key to disability inclusion. Perkins is committed to breaking down society's barriers to disability inclusion to ensure all people are treated with the respect and dignity they deserve.

Although a disability can be acquired at any time in life, the Centers for Disease Control and Prevention ("CDC") shows that disabilities are more common among adults 65 years of age and older, affecting approximately two in five adults in this age group.[1] Accordingly, as the population ages, their needs may change as well. Technology has the potential to transform the lives of our aging population by providing innovative solutions that enable their independence while ensuring their continued community participation. With assistive technology such as screen readers or text-to-speech software, older adults can access news articles or other information from websites, helping them stay informed. Mobile apps, too, have the potential to revolutionize inclusion efforts for people with disabilities who can benefit most from these

[1] CDC, *Prevalence of Disabilities and Health Care Access by Disability Status and Type Among Adults — United States, 2016*, https://www.cdc.gov/ncbddd/disabilityandhealth/features/kf-adult-prevalence-disabilities.html (Last reviewed Sept. 16, 2020).

innovations. Features such as voice commands and haptic feedback can make these apps more accessible. However, without accessibility to assistive and information and communications technologies, these solutions will not meet the needs of all older adults, especially those with disabilities.

Perkins is honored to submit the following comments on the ways in which the federal government can improve access to information and communication technology.

Recent Release of Proposed Rules to Advance Protections Against Discrimination on the Basis of Disability

The federal government recently released two long-awaited proposed rules pertaining to nondiscrimination on the basis of disability. Both of these rules are long overdue and Perkins commends the Administration for issuing them for the benefit of people with disabilities, notwithstanding key needed improvements to these proposed rules that we discuss below.

First, on August 4, 2023, the U.S. Department of Justice ("DOJ") issued a proposed rule entitled, *Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government Entities* ("DOJ Proposed Rule").[2] This proposed rule seeks to revise the regulations implementing title II of the Americans with Disabilities Act ("ADA") to establish specific requirements, including the adoption of specific technical standards, for making accessible the services, programs, and activities offered by state and local government entities through websites and mobile apps.

As mentioned above, websites and mobile apps play an integral role in today's society in providing services and information to members of the public, including seniors with disabilities. Although technology and internet accessibility have drastically changed since enactment of the ADA in 1990, the DOJ's regulations governing website accessibility under Title II have not. Notably, individuals with visual impairment face unique and significant challenges when accessing websites or mobile apps. For instance, websites and mobile apps may not allow text resizing or have screen reader capabilities. The DOJ Proposed Rule states that it provides the necessary direction for state and local government entities to comply with their duties to provide effective communication and refrain from discrimination based on a person's disability under the ADA.

[2] Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities, 88 Fed. Reg. 51,948 (Aug. 4, 2023), https://www.federalregister.gov/documents/2023/08/04/2023-15823/nondiscrimination-on-the-basis-of-disability-accessibility-of-web-information-and-services-of-state#h-34.

Perkins SCHOOL FOR THE BLIND

The second major proposed rule was published on September 14, 2023, by the U.S. Department of Health and Human Services ("HHS"). This landmark proposed rule, entitled, *Discrimination on the Basis of Disability in Health and Human Service Programs or Activities* ("HHS Proposed Rule"),[3] would further advance protections for people with disabilities by updating section 504 of the Rehabilitation Act of 1973 ("Section 504"). Section 504 prohibits discrimination on the basis of disability in programs and activities that receive federal financial assistance, as well as in programs and activities conducted by any federal agency. Accordingly, the HHS Proposed Rule applies to recipients of HHS funding and financial assistance ("recipients"). This proposed rule seeks to improve health equity by advancing equitable access to benefits and services in the health care system. Specifically, the proposed rule would:

- Prohibit discrimination in medical treatment decisions;
- Prohibit discriminatory use of value assessments; and
- Create federal accessibility standards for websites, mobile apps, and kiosk accessibility; and requirements for medical equipment.

Although Perkins applauds the federal government's efforts to address discrimination on the basis of disability under both proposed rules, we believe more work is needed to ensure meaningful access to governmental and non-governmental activities, services, and programs. To that end, we urge Congress to encourage DOJ and HHS to finalize rules in accordance with the following comments below on (1) the requirement for conforming with Web Content Accessibility Guidelines ("WCAG") version 2.1; (2) the number of exceptions allowed under both proposed rules; and (3) the lengthy and staggered timelines for compliance with both rules.

I. Conforming with WCAG Version 2.1

Both the DOJ Proposed Rule and the HHS Proposed Rule (collectively, "Proposed Rules") would require conformance to WCAG version 2.1, Level AA. Although WCAG 2.1, Level AA includes additional success criteria that require important accessibility features especially for people with low vision, manual dexterity disabilities, and cognitive and learning disabilities, the World Wide Web Consortium is expected to publish WCAG version 2.2 by the end of September 2023, or shortly thereafter. Therefore, in order for both Proposed Rules to be as current and up-to-date as possible, we believe that DOJ and HHS should mandate the compliance with WCAG version 2.2 after its publication.

[3] Discrimination on the Basis of Disability in Health and Human Service Programs or Activities, 88 Fed. Reg. 63,392 (Sept. 7, 2023), https://www.federalregister.gov/documents/2023/09/14/2023-19149/discrimination-on-the-basis-of-disability-in-health-and-human-service-programs-or-activities.

Perkins SCHOOL FOR THE BLIND

II. Exceptions to Accessibility Requirements

The Proposed Rules create a baseline for accessibility but allow for a number of important exceptions which stand to significantly undermine the purpose of the ADA and Section 504, respectively. These exceptions includes:

1. Archived web content;
2. Conventional electronic documents that are preexisting;
3. Web content that a third-party posts on a public entity's/recipient's website;
4. Third-party web content that a public entity/recipient links to its website;
5. Course content that is available on a public entity's/recipient's password-protected or otherwise secured website for students that are enrolled in a specific course that a public post-secondary institution offers;
6. Class or course content that is available on a public entity's/recipient's password-protected or otherwise secured website for both students enrolled and/or parents of students enrolled, in a specific class or course that the elementary or secondary public school offers; and
7. Password-protected or otherwise secured conventional electronic documents that pertain to a specific individual (e.g., healthcare records), their property, or their account.

If an exception applies, the public entity and/or recipient is not required to make the content conform to WCAG 2.1 Level AA.

Furthermore, DOJ and HHS are proposing that under limited circumstances, public entities/recipients may use "conforming alternate versions" of web pages to achieve accessibility under the Proposed Rules. The Proposed Rules also contemplate a level of flexibility for public entities/recipients whereby the entity may have an opportunity to demonstrate that it can achieve, at minimum, substantially equivalent usability and accessibility through alternatives to WCAG 2.1 Level AA criteria. Any alternative provided must have a substantially equivalent or greater level of accessibility and usability than the original website or mobile app.

Perkins has significant concerns that the broad exceptions included in both Proposed Rules stand to undermine both ADA and Section 504 obligations and protections. By allowing for these numerous exceptions, especially for password-protected documents, huge amounts of material would not be required to be accessible for people with disabilities. We believe that these exceptions seriously undermine the intent, effectiveness, and credibility of both Proposed Rules.

III. Lengthy and Staggered Timelines for Compliance

Perkins SCHOOL FOR THE BLIND

The timelines for compliance with both Proposed Rules are lengthy and problematic. Public entities with a total population of fewer than 50,000 employees (DOJ Proposed Rule) or recipients with fewer than 15 employees (HHS Proposed Rule) would have three years to come into compliance; and public entities with a total population of 50,000 or more (DOJ Proposed Rule) or recipients with 15 or more employees (HHS Proposed Rule) would have two years to comply.

Digital accessibility is not a new concept, and these requirements should come as no surprise to either public entities or federal recipients. Accessibility tools, techniques, guidance, and services exist now, and have been available for decades, that can aid agencies and organizations in complying with the new rules in a much faster timeframe. The Proposed Rules, therefore, should be seen as nothing more than a clarification of existing standards. As such, we believe that agencies and organizations, regardless of the size, do not need *years* to come into compliance with these important rules that will improve the lives of so many individuals with disabilities. People with disabilities should not be forced to wait any longer to gain access to important documents, services, activities, and programs readily available to their non-disabled peers.

* * *

Thank you for your consideration of our written testimony. If you have any questions, please contact Dave Power at dave.power@perkins.org.

Sincerely,

Dave Power
President and CEO, Perkins School for the Blind

Testimony to the U.S. Senate Special Committee on Aging
Hearing on Unlocking the Virtual Front Door: Ensuring Accessible Government Technology for People with Disabilities, Older Adults, and Veterans
September 21, 2023
Jonathan Lazar, Ph.D., LL.M.
Professor of Information Studies, University of Maryland

Digital accessibility has the potential to improve the quality of life for millions of Americans with disabilities. I want to start my testimony by applauding Chairman Casey and the U.S. Senate Special Committee on Aging for bringing attention to the topic of digital accessibility, through this hearing on September 21, 2023, a previous hearing on July 28, 2022, the *Unlocking the Virtual Front Door* report which was issued in December 2022[1], and various other actions (as highlighted in pages 11 and 12 of the report).

The overall recommendations from *Unlocking the Virtual Front Door* were accurate and timely. I appreciate the impact that the committee report has had, in terms of improving transparency of data and reporting, as well as engaging the GAO in investigating Section 508 compliance throughout the government. I want to encourage the committee to keep pushing forward on the specific recommendations provided in the report, all of which are important. Rather than repeating and emphasizing the excellent recommendations which start on Page 46 of the report, all of which I agree with, I want to make two additional suggestions: 1) Moving the Federal government to the born-accessible model for digital technology and content development, and 2) Creating the position of Chief Accessibility Officer for the Federal government.

1) Moving the Federal government to the born-accessible model

My colleagues Paul Jaeger, Brian Wentz, and I described the problems of retrofitting for digital accessibility 12 years ago in 2011, identifying that this approach of build quickly and then fix later, was leading to delayed access and increased costs:

"…existing disability laws empower a culture of retrofitting rather than early planning or even long–range planning…as a result, the accepted approach seems to be to satisfy the minimum requirements only after attention to the inaccessibility is noted, usually in the context of active discrimination against persons with disabilities. If the Internet is to fulfill its promise of providing new levels of inclusion for people with disabilities, the barriers to equal access need to be eradicated." [2]

"The retrofitting for accessibility often occurs only begrudgingly, after sufficient complaints are made, normally many years after the inaccessible version is made available. If a parallel version is created to provide for accessibility, it often has fewer features and

---

[1] https://www.aging.senate.gov/imo/media/doc/unlocking_the_virtual_front_door_-_full_report.pdf
[2] Wentz, B., Jaeger, P. T., & Lazar, J. (2011). Retrofitting accessibility: The legal inequality of after-the-fact online access for persons with disabilities in the United States. First Monday. Available at: https://firstmonday.org/ojs/index.php/fm/article/view/3666/3077

capabilities, far less content, and is frequently out–of–date. The combination of these attitudes and the approach of the law have resulted in fairly disastrous consequences in terms of equal access online for persons with disabilities…If people with disabilities are to move from being the most disadvantaged population online to equal residents of cyberspace, the philosophical approach of disability rights law needs to evolve. This evolution hinges on a rejection of the mentality of retrofitting and separate but equal, instead incentivizing a philosophy that emphasizes born–accessible technologies, ones that are designed to be inherently inclusive of persons with disabilities from the outset. [3]

In my written testimony to the U.S. Senate Special Committee on Aging on July 28th, 2022[4], I stated:

"*Agencies often make accessibility fixes only reactively, when notified of problems or if an administrative complaint is filed. Reactively retrofitting for accessibility is the most expensive way to do it. When technologies are designed from the start to be accessible, the additional costs to be accessible are minimal. Retrofitting a technology for accessibility after it is built can lead to higher costs, however, the costs are not inherent to the accessibility, the costs are due to the need to retrofit. Also, the time delay in retrofitting the technology for accessibility, when a person with disabilities doesn't have access to it but a person without disabilities does have access, is a form of societal discrimination*."

I was pleased to hear Ronza Othman, one of four witnesses in the September 21st, 2023 hearing, discuss the need for the born-accessible model in digital technologies and content:

"If accessibility is baked into the system at the development stage, it's simply coding in a way that ensures information is tagged properly and navigable by assistive technology. Most coding is very simple and easy, and it doesn't alter the visual appearance of the platform or entity… Imagine making a pizza and adding the pizza sauce. Now imagine making a pizza and omitting the pizza sauce prior to baking it. Then, imagine trying to put the sauce on after the pizza has been baked, sliced, and some of it served. It's a difficult but not an impossible task to "fix" the pizza, but it'd have been a lot easier to have just added the sauce from the beginning."[5]

Ms. Othman is describing the born-accessible model for digital technologies and content. This is an important point. Ms. Othman's metaphor of a pizza is a creative one; others often use the metaphor of a home. If you build a new home to be accessible from the start, accessibility costs are negligible. You make sure that the building standards are followed, so that doorframes are wide enough for wheelchair users, there is enough turnaround

---

[3] Wentz, B., Jaeger, P. T., & Lazar, J. (2011). Retrofitting accessibility: The legal inequality of after-the-fact online access for persons with disabilities in the United States. First Monday. Available at: https://firstmonday.org/ojs/index.php/fm/article/view/3666/3077

[4] https://www.govinfo.gov/content/pkg/CHRG-117shrg49440/pdf/CHRG-117shrg49440.pdf , my testimony starts on page 95

[5] https://www.aging.senate.gov/imo/media/doc/6cd5012e-9f30-cc21-fdf7-cdad34a8ff0a/Testimony_Othman%209.21.2023.pdf

radius in the bathroom, there is a step-free entry to the home, and so on. These do not increase the costs of construction. Yet if you are attempting to retrofit an existing home for accessibility, the costs are not minimal. It takes time and money to reframe the doorway and to regrade the entryway. This is common sense. We don't build new Federal buildings to be inaccessible and expect that architects will come in later to retrofit the buildings.

In her 2017 article in Interactions Magazine, *Putting Accessibility First*, Elizabeth Churchill, user experience lead at Google, gives a technical example of how retrofitting for accessibility leads to an increased cost:

"When accessibility requirements are deferred, a backlog of accessibility debt is created and downstream costs will likely be incurred. For example, you may design a complex workflow with intricate elements to complete a task. If you haven't considered accessibility up front, you may discover that some of the elements are impossible to build for accessibility and end up having to redesign and rebuild the entire workflow from scratch."[6]

It is important that newly created digital technologies and content in the U.S. Federal government utilize a born-accessible model. Using the born-accessible model leads to: 1) lower costs for accessibility, and 2) people with disabilities not having delays in receiving access to Federal technologies and content. This approach is a win-win, as it lowers the cost while simultaneously reducing barriers. It is also important to consider that if a technology or digital content is inaccessible, while it is being remediated, the Federal agency is still required to provide access to the needed information, forcing the agency to provide accommodations which may be expensive as they may involve individualized help.

Given the high number of existing digital technologies, software, apps, web content, and documents that are inaccessible, we will always need to research and develop technical solutions for remediation of existing technologies. However, going forward, one of the largest opportunities for saving money and improving civil rights is to mandate the born-accessible model in the development of digital technologies and content so that nothing is ever created inaccessibly again. And the good news is that there is existing expertise within the Federal government, related to accessible procurement.[7] Because the procurement process involves multiple checks to ensure that taxpayer dollars are being spent prudently, adding accessibility requirements into procurement can be a natural way to enforce the born-accessible model. Yet even with enhanced procurement procedures for digital technologies and content developed externally, the born-accessible model needs to be mandated for any technologies developed within the Federal government, as well as digital content which changes often. As mentioned in my testimony to the committee in 2022,

---

[6] Churchill, E. F. (2018). Putting accessibility first. Interactions, 25(5), 24-25.
[7] https://www.section508.gov/buy/

"In one of the most shocking examples from the FOIA requests, employees at the U.S. Department of Labor had a discussion about whether they could potentially get a waiver from Section 508 requirements because they did not have any employees with disabilities who might use the product.[8] *Obviously, if you do not currently have any employees with disabilities, and you procure or build technologies that are inaccessible, they will serve as a barrier for hiring employees with disabilities in the future."*

At this point in time, 50 years after the enactment of the Rehabilitation Act of 1973, and more than 30 years after the enactment of the Americans with Disabilities Act, we should no longer be creating any new barriers to the inclusion of people with disabilities in society. Moving the entire Federal government to the born-accessible model for digital technologies and content would be an important step towards that goal of full inclusion.

2) Creating the position of Chief Accessibility Officer for the U.S. Federal government

During the hearing held on Sept 21, 2023, Ranking Member Braun noted that, "*I am encouraged by the states' leadership and urge them to continue to explore ways to improve accessibility*."[9] I heartily agree, and note that there is one recent phenomenon occurring in states which is something that should be repeated in the Federal government: an appointment of a Chief Accessibility Officer, or someone with the equivalent role, responsibilities, and position in the overall hierarchy.

On page 43 of *Unlocking the Virtual Front Door*, the report directly references my testimony:

"The Committee received testimony that Section 508 compliance within agencies is lacking—an issue laid bare by oversight of VA—and that the Federal government does not have a single entity that takes responsibility for Section 508 compliance across the entire government. As one expert told the Committee, while a number of agencies have a hand in overseeing aspects of Federal technology accessibility, "none of these entities have enforcement power, as neither the statute nor the regulation authorizes any enforcement power." In the end, "[e]ach Federal agency is essentially on the 'honor system,' as no agency has the authority to enforce Section 508, no agency is required to report publicly about their compliance with Section 508, and so Section 508 remains hidden away."

---

[8] Source document: Quality Management Team: Meeting Minutes, July 8, 2011. *"[Name removed] said that if there are no disabled users for a product it should automatically qualify for undue burden. The group unanimously agreed with [name removed]; however, [name removed] and [name removed] stated that by law this cannot be a justification for choosing undue burden alone."*

[9] https://www.aging.senate.gov/imo/media/doc/6cd5012e-9f30-cc21-fdf7-cdad34a8ff0a/Opening%20Statement_Braun%209.21.2023.pdf

Moreover, Section 508 compliance responsibilities may be given to agency employees with other, full-time responsibilities, an observation in line with what VA reported in response to Senator Casey's letter…"[10]

Whether or not there is enforcement power in a position of Chief Accessibility Officer, the position would raise the visibility of the importance of digital accessibility, create a highly placed champion for the topic, and allow for coordination across the various departments who currently have or may have responsibilities related to digital accessibility. The recommendations in the report (on page 46) include that: The Department of Justice (DOJ) should resume reporting on Federal compliance with Section 508 requirements, The General Services Administration (GSA) should publish data on Section 508 compliance, The Office of Management and Budget (OMB) should review its strategic plan for improving management of Section 508, and Inspectors general should increase oversight of Section 508 compliance. Who would be the person coordinating the efforts between the DOJ, OMB, GSA, Inspectors General, and the U.S. Access Board? Currently, there is no one. A Chief Accessibility Officer could serve that role of coordination.

In line with Ranking Member Braun's suggestion of looking to the states for potential inspiration, multiple states have one person leading the efforts, coordinating, and advocating for digital accessibility across all parts of the state government. In Pennsylvania, the title is Chief Accessibility Officer[11], in Massachusetts, Chief Information Technology Accessibility Officer[12], in Maryland, Director of Accessibility[13], in Illinois, Chief Information Accessibility Officer[14], and in Minnesota, Chief Information Accessibility Officer.[15] Regardless of what the title is, the role elevates the importance and visibility of digital accessibility within state government, and gives an individual the responsibility for both championing the topic, and serving as a coordinator throughout the state government. I believe that the U.S. Federal government needs to have such a position. I will note that not only is this a best practice within state government, but similar positions exist at major technology companies such as Microsoft[16], which has had a Chief Accessibility Officer for over a decade.

---

[10] https://www.aging.senate.gov/imo/media/doc/unlocking_the_virtual_front_door_-_full_report.pdf
[11] https://www.oa.pa.gov/Programs/Information%20Technology/Pages/leadership.aspx
[12] https://www.mass.gov/news/governor-healey-signs-executive-order-establishing-digital-accessibility-and-equity-governance-board
[13] https://governor.maryland.gov/news/press/pages/governor-moore-announces-major-action-to-rebuild-state-government-and-modernize-maryland-department-of-information-technolo.aspx
[14] https://statescoop.com/radio/illinois-prioritizes-accessibility-in-it-planning/
[15] https://mn.gov/mnit/about-mnit/accessibility/news/?id=416140
[16] https://news.microsoft.com/stories/people/jenny-lay-flurrie.html

Summary

I want to again applaud Chairman Casey and the U.S. Senate Special Committee on Aging for their ongoing work in the area of digital accessibility, and I want to support and echo the findings in their *Unlocking the Virtual Front Door* report which was published in December 2022. In addition to the excellent recommendations in that report, my two additional suggestions are 1) Moving the Federal government to the born-accessible model for digital technology and content development, and 2) Creating the position of Chief Accessibility Officer for the entire Federal government. Both suggestions are based on existing best practices from outside of the Federal government.

Dr. Jonathan Lazar is a Professor in the College of Information Studies at the University of Maryland. At the University of Maryland, Dr. Lazar is the Executive Director of the Maryland Initiative for Digital Accessibility (MIDA), a cross-campus center involving over 40 faculty and staff in 7 different colleges, focused on digital accessibility research, development, design, advocacy, education, policy, and law. He is also a faculty member in the Human-Computer Interaction Lab (HCIL). Dr. Lazar has authored or edited 17 books, including Research Methods in Human-Computer Interaction (2nd edition, co-authored with Heidi Feng and Harry Hochheiser), Ensuring Digital Accessibility Through Process and Policy (co-authored with Dan Goldstein and Anne Taylor), and Disability, Human Rights, and Information Technology (co-edited with Michael Stein). He has published over 200 refereed articles in journals, conference proceedings, and edited books, and has been granted two US patents for his work on accessible web-based security features for blind users. He frequently serves as an adviser to government agencies and regularly provides testimony at federal and state levels, and multiple US federal regulations cite his research publications. Dr. Lazar has recently been honored with the 2020 ACM SIGACCESS Award for Outstanding Contributions to Computing and Accessibility, the 2017 University System of Maryland Board of Regents Award for Excellence in Research, and the 2016 ACM SIGCHI Social Impact Award, given annually to an individual who has promoted the application of human-computer interaction research to pressing societal needs. ***The opinions expressed in this testimony are the personal opinions of Dr. Lazar and do not represent the University of Maryland or the University System of Maryland.***

Dr. Lazar can be reached by e-mail at ***jlazar@umd.edu.***

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

THE INSPECTOR GENERAL

Statement for the Record
Sandra D. Bruce, Inspector General
U.S. Department of Education Office of Inspector General
Before the Senate Committee on Aging
September 21, 2023

Chairman Casey, Ranking Member Braun, Members of the Committee, thank you for holding this hearing today and for inviting me to share my thoughts on issues specific to accessibility, both as the Inspector General of the U.S. Department of Education and as the Chair of the Council of the Inspectors General on Integrity and Efficiency's (CIGIE) Diversity, Equity, Inclusion, and Accessibility (DEIA) Committee. I appreciate the opportunity to be a part of this important discussion.

As members of this Committee know very well, accessibility encompasses how organizations ensure equitable access to everyone along the continuum of human ability and experience, as well as how organizations make space for the characteristics that each person brings to the workforce. For the U.S. Department of Education (Department) Office of Inspector General (OIG), it also means taking actions to ensure that our products and services are more broadly accessible by all, since accessibility is not just about our physical workplace environment, it's about ensuring that everyone can access and benefit from the work we produce and the services we provide. We see this as an accountability component because it is not our words, but our actions that demonstrate that we are taking our goals and commitment to diversity, equity, inclusion, and accessibility seriously. And this is true throughout the Federal Inspector General community.

I have the honor of serving as the Chair of the CIGIE DEIA Committee, which helps to ensure that the comprehensive work produced by our well-trained and highly skilled workforce is accessible to the diverse public we serve. Established in 2020, our Committee looks to affirm, advance, and augment the CIGIE's commitment to promote a diverse, equitable, and inclusive workforce and workplace environment throughout the OIG community. To that end, in 2022, the Committee issued a report titled "Advancing Diversity, Equity, Inclusion, and Accessibility: A Roadmap for Offices of Inspectors General." This first-ever resource was created as a tool for all OIGs, regardless of size or where they are in advancing DEIA initiatives in their own offices. It offers goals, action steps, and ways to measure success that can be used by all OIG staff—from senior executives to entry level staff and those new to the OIG community. We are in the process of finalizing our first update to the Roadmap, providing additional information, resources, tools, and action steps to help OIGs take a more proactive approach to incorporating DEIA into their operations and work products, and to help ensure that Federal programs are operating as required, achieving desired results, and reaching the intended recipients. The updated Roadmap will include new "routes" and information related to equity, accessibility, and safe and harassment-free workplaces.

Specific to accessibility, the updated Roadmap will provide information for OIGs to (1) evaluate their products, services, policies, and procedures for compliance with accessibility requirements and to identify areas for improvement and collaboration; (2) increase staff awareness on accessibility, disability, and accommodations, as well as physical and attitudinal barriers to equitable opportunities; and (3) promote leading practices and standards within the OIG and implement emerging trends, support equitable access, and remove potential barriers.

The CIGIE updated Roadmap represents the next stage in our journey to drive innovation in the IG community and improve organizational performance and results. It will also be a living document that we will continue to update with new information and leading practices that will help position OIGs as model employers that value and promote equity for all Americans. The updated Roadmap will be available to the public here on the CIGIE website. I would encourage the public to read the report to learn more about the Federal Inspector General community and our commitment to ensuring accessibility with our work products and in our workplaces.

Specific to the U.S. Department of Education OIG, my office has included goals specific to accessibility in our FY 2023–2028 Organizational Strategic Plan as well as in our FY 2023–2028 DEIA Strategic Plan, and we share our progress in meeting those goals in our annual performance results reports and our DEIA annual progress reports. The first goal in our organizational strategic plan is to maximize our value to our stakeholders—America's taxpayers, Congress, students, and their families—promoting effectiveness in the Department's programs and operations by delivering relevant and timely information. Through this effort, we look to refine and implement processes to deliver high-quality products that are timely, cost-effective, and accessible to the diverse public we serve. Another one of our organizational strategic goals is to invest in the OIG workforce and workplace, cultivating a talented and diverse workforce and an inclusive, equitable, and accessible workplace environment that inspires engagement, creativity, and excellence. To this end, we look to build and maintain an accessible, collaborative, and cohesive workplace with the technology and related resources necessary to support an accessible work environment.

Accessibility is incorporated throughout our FY 2023–2028 DEIA Strategic Plan, including a goal specific to delivering high-quality and accessible audits, investigations, outreach, and other work products that align with our DEIA initiatives. Our strategies for reaching these goals include (1) advancing DEIA elements in OIG work products; (2) developing processes to ensure equity of opportunity when assigning staff to work assignments and special projects and initiatives; (3) ensuring the OIG's work products, services, and digital presence are accessible to a vast audience, including people with visual and hearing impairments and individuals with limited English proficiency; and (4) enhancing our outreach efforts and creating new opportunities to message and deliver work products, services, and information to diverse stakeholders. One of the ways we plan to measure our success in meeting this goal is to regularly monitor and evaluate OIG programs, accessible information technology, services, and policies for compliance and any other regulatory guidance to identify opportunities to improve quality and consistency of access.

As both our organizational strategic plan and our DEIA strategic plan took effect in FY 2023, we are now evaluating our progress toward achieving our goals in this first year. We will be sharing

those results in our FY 2023 Performance Results Report and FY 2023 DEIA Annual Progress Report, which will be available to the public here on our website.

Now that I have shared information about the CIGIE's and my office's commitment and plans specific to accessibility with an emphasis on accountability, I am certain you are interested in hearing about our oversight work in this area. I am happy to share some of that work with you today.

Throughout the OIG's history, we have examined the Department's programs and operations. Where our work has identified weaknesses, we have offered recommendations to address those weaknesses. Our work has looked at issues that touch on accessibility—be it accessibility to student loan programs and information, K–12 and special education grants, access to Department systems and data, or website accessibility.[1] This includes work completed in 2023, such as the extent to which the Federal Student Aid office identifies individuals who belong to underserved communities and performs outreach to those identified individuals; the steps that the Office of Special Education and Rehabilitative Services has taken to implement its final regulations on significant disproportionality in special education; and the Office of Civil Rights' (OCR) processing of web accessibility complaints. Let me share information with you on that report.

As background, issues involving potential violations of, or complaints about, compliance and efforts specific to the Rehabilitation Act of 1973, as amended, and Title II of the Americans with Disabilities Act of 1990, as amended, are not common here at the OIG, so when an issue related thereto comes to my office, we take it very seriously. This was the case in late 2021, when the OIG Hotline received allegations involving OCR's handling of web accessibility complaints. The complainants alleged that OCR improperly closed web accessibility complaints that had been previously dismissed and reopened as directed investigations and that they also imposed unreasonable requirements on the filing of new web accessibility complaints. In response, we conducted a review to examine OCR's process for resolving web accessibility complaints and its approach to evaluating new web accessibility complaints.

Among our findings, we determined that OCR's resolution of web accessibility complaints previously dismissed and subsequently reopened as directed investigations[2] differed from how these reviews were resolved in the past, specifically, regarding whether a compliance determination was made, and that determinations made by OCR were inappropriate based on the level of testing performed. As a result of OCR's changes to its procedures and the unclear way these changes were implemented, it could be difficult for people unfamiliar with OCR's process to understand the procedures for processing these complaints. We also found that OCR changed its approach to evaluating new web accessibility complaints beginning in December 2018, more frequently applying a section of its Case Processing Manual to dismiss allegations and complaints for insufficient evidence, even though the evidence provided by complainants before

[1] Web accessibility is the practice of making websites usable for all visitors, including those with disabilities, impairments, and limitations.
[2] A directed investigation is an OCR-initiated process that allows OCR to review a recipient's program or activity that is not being addressed through the complaint process, compliance review, or technical assistance.

and after December 2018 was similar. As a result, OCR's new process may have created confusion and distrust among complainants and the public.

We made two recommendations to address the issues identified: (1) that OCR update its website, as necessary, to clearly communicate the evidence requirements so complainants can clearly understand what information is needed to support a successful web accessibility complaint; and (2) that OCR determine whether the web accessibility complaints dismissed since December 2018 should be reopened and reviewed without the complainant needing to re-file those complaints. The Department did not specifically agree or disagree with our findings and did not agree with our recommendations. This report is available here on our website.

As we enter a new fiscal year, my office will continue its work involving accessibility-related issues at the Department, whether ensuring access to its programs and information, or areas specific to accessibility. This work may include a review of the Department's external and internal websites and subsites for compliance with Section 508 of the Rehabilitation Act. We are also considering conducting a review of the Department's administration of reasonable accommodation requirements to ensure it is providing reasonable accommodations for employees with disabilities or those with diverse religious beliefs. We will be sure to share with the Committee the results of these reviews, or other work specific to accessibility, once final. Further, please know that we also stand ready to assist our oversight colleagues, such as the Government Accountability Office, in any accessibility-related work they may be conducting involving the Department.

I hope this information of our commitment to, our plans for, and our completed work involving accessibility issues has been helpful and informative. We will be sure to keep you apprised of our work and efforts in this area going forward. Thank you again for the opportunity to be a part of this hearing. I'm happy to answer any of your questions.

GAVIN NEWSOM
GOVERNOR

NANCY WARD
DIRECTOR

WRITTEN STATEMENT FOR THE RECORD

FOR THE HEARING ENTITLED "TO COMMEMORATE THE 50TH ANNIVERSARY OF THE PASSAGE OF THE REHABILITATION ACT AMENDMENTS OF 1973"

UNITED STATES SENATE
SPECIAL COMMITTEE ON AGING
SEPTEMBER 21, 2023

BY
NANCY WARD
DIRECTOR
CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES
3650 SCHRIEVER AVENUE
MATHER, CA 95655

Chairman Casey, Ranking Member Braun, Members of the Committee, my name is Nancy Ward. I serve as the Director of the California Governor's Office of Emergency Services (Cal OES), a position I was appointed to in December 2022.

It is an honor to be asked to submit this Statement for the Record in connection with this hearing to commemorate the 50th anniversary of the passage of the Rehabilitation Act Amendments of 1973.

California recognizes that all disasters disproportionately impact individuals with disabilities, older adults, and all persons with other access or functional needs (AFN). This issue was highlighted nationally during Hurricane Katrina. During that event, as a country, we witnessed as 70% of everyone who perished had an access or a functional need, with many of those individuals being older adults.

To address this inequity in a meaningful way, to reduce the impacts disasters have on underrepresented communities, and to ensure all Californians are provided with equal access to the lifesaving emergency management-related programs, services, and resources we utilize before, during, and after events – California's Governor established the Office of Access and Functional Needs (OAFN) in 2008 and placed it within his Office of Emergency Services.

The first, and only office of its kind in the nation, OAFN is led by a gubernatorially-appointed, senior-level executive tasked with partnering with emergency managers, community-based organizations, and whole community stakeholders to ensure the needs of all individuals, including people with disabilities and older adults, are identified and integrated throughout every facet of the emergency management process.

The mission of integration is central to everything we do at Cal OES and we are proud to lead the nation in inclusive planning. Our commitment to integration speaks to who we are as a state, is woven throughout the DNA of our agency, and reflects the value California places on the life of every person, regardless of disability, age, or access and functional need.

Cal OES adopts a multi-pronged approach to inclusion and integration, which includes providing technical assistance, guidance, facilitation, partnership outreach, training, and other support services to emergency managers, community stakeholders, and service providers responsible for planning, preparing, responding to, and recovering from, all hazards.

We respond to major disasters in support of the whole community and support local jurisdictions as they work to provide effective communication, evacuation, sheltering, and recovery operations.

50 years after the passage of the Rehabilitation Act Amendments of 1973, we celebrate the advancements made to provide for the increased accessibility of information for individuals with disabilities and older adults during disasters. At the same time, we recognize additional progress is needed, which is why Cal OES remains continuously poised to finding new and innovative ways to make services, programs, and communications more accessible for all residents in emergency phases that include planning, response, recovery, and mitigation.

California has a dynamic disaster risk landscape, and the vital importance of accessible information continues to manifest itself in the lives of the people we serve.

In 2017, wildfires erupted in Northern California. It was the middle of the night, as is often the case with disasters, and local emergency managers grappled with whether to send an electronic emergency notification to the smartphones of individuals in the impact area to alert them about the situation. Ultimately, for a variety of reasons, local officials decided not to send the alert.

Of the many points they discussed when deciding whether to issue the electronic notification, one consideration that was not fully understood is the impact not alerting has on individuals in the deaf and hard of hearing community.

Individuals who are deaf, typically place their smartphones somewhere on their person when they go to sleep at night. Doing so helps ensure that, when important text messages or phone calls come in, the phone vibrates and wakes them up. However, because the alert was never sent, their phones did not vibrate. So, they slept as wildfires raged around them. This gap was measurable in suffering and loss of life among individuals in the deaf and hard of hearing community.

One individual shared that he was woken up after his phone vibrated from texts sent by concerned family and friends telling him about the fire and urging him to evacuate.

After grabbing a few items from his home, he drove down the street where he saw the parking lot of the local Staples store filled with people. Everyone was in their car, their faces illuminated by their smartphones. He parked his car and began streaming the local news for information. Suddenly, everyone around him turned on their cars and left the parking lot. Alone now, he was confused and did not understand what was happening. Moments later, it dawned on him that the local news had reported where to evacuate for safety. However, because the local broadcast did not integrate American Sign Language interpretation, he was unable to access the information provided. Uncertain about what to do, he began texting friends and family for assistance. In turn, they tuned in to the news and relayed information back to him via text regarding where he should go. After being turned around multiple times, he was finally able to evacuate safely.

A key lesson learned from this event was the need to empower local emergency managers with guidance on the access and functional considerations associated with electronic emergency alert, warning, and notification programs. Paramount among those considerations is accessibility.

To address this need, Cal OES led the development of the first-ever State of California Alert and Warning Guidelines in 2019. The guidelines, which were updated in 2023, were created through an inclusive process that brought together emergency managers, subject matter experts, and representatives from the access and functional needs community. Among other things, the guidelines:

GAVIN NEWSOM
GOVERNOR

Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

NANCY WARD
DIRECTOR

- Detail, include, and convey AFN-related considerations, best practices, and responsibilities on virtually every page of the document.
- Specifically highlight the disproportionate impact disasters have on the AFN community, that individuals with AFN may require additional time to evacuate, and the increased risk of harm delays in alerting can have on the whole community.
- Call for alerting using accessible formats, multiple languages, and plain verbiage at a fourth-grade level to ensure comprehension by the whole community.
- Stress the need for earlier "pre-warnings" targeted directly to individuals with AFN through community-based organizations (CBOs) and private nonprofits who are providing essential services to consumers with disabilities, older adults, and caregivers in the operational area.

In addition to promoting accessible emergency notification systems capable of reaching a diverse population of individuals to effectively relay information regarding any emergency or disaster, Cal OES ensures the information products we develop are accessible for the public, including individuals using screen readers and assistive devices.

Signed in 2017, Government Code (GC) Section 11546.7 requires the Director and the Chief Information Officer of each state agency to post a signed certification indicating their respective agency's website, and all accompanying information, meets, or exceeds, compliance with the Web Content Accessibility Guidelines (WCAG) 2.0.

Per the GC, Cal OES audited our website and remediated all posted documents.

To ensure all newly-developed best practices, lessons learned, after action reports, and other agency information products are created meeting appropriate accessibility standards, Cal OES has implemented an innovative approach centered around training, software, human testing, and professional remediation services.

In 2019, Cal OES began providing a series of 3 different in-house training courses on how to create accessible documents. The courses train participants to meet or exceed WCAG 2.1 AA standards, which aligns with the proposal the U.S.

GAVIN NEWSOM
GOVERNOR

Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

NANCY WARD
DIRECTOR

Department of Justice has initiated via its Notice of Proposed Rulemaking for ensuring web content is readily accessible to, and usable by, individuals with disabilities. Cal OES fully supports the proposed new rule, which would implement the same standard we already teach, train, and promote among our course participants.

Our training courses were initially focused on web content managers from each Division/Branch/Section. In a reflection of our commitment to ensuring the accessibility of all electronic agency products, training courses were expanded to include all Cal OES employees.

After hearing from local jurisdictions that they lacked the financial capacity and technical capability to remediate their emergency management-related documents for utilization by individuals with disabilities using assistive devices and technology; Cal OES grew our training program in 2022 to provide free enrollment for all local emergency managers throughout the state.

Recognizing the immense value CBOs serving individuals with disabilities, older adults, and all people with access or functional needs provide as partners in emergency management; Cal OES recently expanded our training program again to allow CBOs and private nonprofits providing essential emergency management services to enroll and receive the benefit of training deliveries for free.

Cal OES is committed to delivering quality products, tools, and guidance that provide programs and resources to assist local jurisdictions identify and integrate access and functional needs before, during, and after disasters.

It should be noted that the progress and innovations Cal OES has made to promote accessible communication have not come easily. Our efforts to provide information in accessible, multi-lingual, verbal, written, and electronic formats are often challenged by resource-constraints. Adding to the complexity of this dynamic is the fact that climate-driven events not only create what seems like an exponentially larger number of events, but what are, in fact, disasters of increased scope, scale, and devastation – all of which require the continuous expansion and delivery of accessible products and information.

At Cal OES, we recognize and embrace that the challenges associated with the ever-growing need to grow the capability, capacity, and resources needed to provide timely, actionable, accessible communication to the whole community are outweighed by the life-saving impacts doing so has for individuals with disabilities, older adults, and all people with access or functional needs.

GAVIN NEWSOM
GOVERNOR

NANCY WARD
DIRECTOR

Cal OES will continue to engage emergency managers within the agency, and throughout the state, community-based organizations, private nonprofits, disability groups, and stakeholders representing the access and functional needs community to promote and empower the integration of accessible communication.

At Cal OES, providing accessible information to all Californians regardless of their disability status or age is more than a legal requirement, it is a moral imperative. Simply stated, everyone has the right to accessible information on how to plan, prepare, respond, and recover from disasters.

I appreciate the opportunity to provide this Statement for the Record and invite the Committee to follow up with me regarding any questions or details.

Testimony

United States Senate Special Committee on Aging

Accessible Government Technology

September 21, 2023

Commonwealth of Pennsylvania,

Governor's Office of Administration

Ellen Strom, Chief Accessibility Officer

Chairman Casey, Ranking Member Braun, and Members of the Senate Special Committee on Aging, thank you for the opportunity to submit written testimony regarding Accessible Government Technology.

I am Ellen Strom, the Commonwealth of Pennsylvania's Chief Accessibility Officer. I was appointed to my position in January 2020.

I have been in the digital customer experience field for over 15 years. Prior to joining the Commonwealth, I concentrated on designing and implementing a digital accessibility program to improve the web and mobile banking experiences for customers with disabilities. I also am a Certified Professional in Accessibility Core Competencies (CPACC).

In my role as Chief Accessibility Officer for the Commonwealth, I focus on ensuring that our state agencies' digital content is accessible to our residents and state employees. I work with state agencies to define best practices, design and implement strategies to educate and influence organizational culture, improve procurement processes, and coordinate webinars and meetings to share information across the enterprise.

I would like to discuss Digital Accessibility in Pennsylvania.

The importance of making Pennsylvania's state government websites and applications accessible for people with disabilities.

In addition to the Americans with Disabilities Act and Section 508 of the Rehabilitation Act, the Commonwealth of Pennsylvania promotes equal access to employees and residents with disabilities as shown in:

- Executive Order 2016-03 (2016_03.pdf (pa.gov)) – *Establishing "Employment First" Policy and Increasing Competitive Integrated Employment for Pennsylvanians with a Disability*
- Executive Order 2023-08 (2023-08 – Bolstering Service Delivery through a Digital Experience Strategy (pa.gov)) – *Bolstering Service Delivery through a Digital Experience Strategy*
- IT Policy ACC001 (ITP-ACC001 Digital Accessibility Policy (pa.gov)) – *Digital Accessibility Policy*

The Commonwealth's goal is to make sure employees and residents are able to access the Commonwealth's digital information and services they need when they need them.

Recent steps that Pennsylvania state government has taken to make its websites and applications more accessible.

The Commonwealth hired its first Chief Accessibility Officer in January 2020. Additional steps taken to improve the accessibility to Commonwealth information and services include:

- Identifying and procuring an enterprise accessibility testing toolkit, which includes automated and manual accessibility testing tools, as well as assistive technologies (screen reader and magnifier). These assistive technologies are also available to employees as a disability accommodation.
- Purchasing a digital accessibility training program with topic-, role-, and tool-based training.
- Updating the Commonwealth's Digital Accessibility Policy to include:
    - Industry standards like the Web Content Accessibility Guidelines (WCAG).
    - Responsibilities for Agencies, IT, Procurement Offices and Suppliers.
    - Deliverables that support the Office of Accessibility's multi-year strategy.
- Starting to build an Accessibility Center of Excellence made up of people:
    - Within a central team who focus on getting employees the tools and training they need to add accessibility to the work they do every day.
    - Throughout the organization to drive adoption and share knowledge.

Barriers to creating accessibility and how the Commonwealth of Pennsylvania is working to overcome them.

Digital Accessibility is not taught in school (kindergarten – 12th grade) and is only taught in a few colleges and universities. Most employees learn about digital accessibility when their employer prioritizes accessibility and pays for training.

It is difficult to find new employees who already have digital accessibility skills because people with such skills are relatively few in number, require large salaries, and are in high demand. The lack of training in school curriculum and the small number of people with these skills means there is a learning curve while employees learn to add accessibility to the work they do.

Without a foundational understanding of digital accessibility, many employees think it is someone else's job to address accessibility in the workplace.

The Commonwealth is working to overcome these barriers by raising awareness and through messaging of the importance of accessibility. The Commonwealth is also developing accessibility policy with the goal of reinforcing the idea that accessibility is the responsibility of all employees. In addition, the Commonwealth

is seeking to implement accessibility training requirements and the development of agency digital accessibility plans to continue to make government web and mobile content more accessible.

General thoughts about the Title II proposed regulations.

Overall, the proposed rulemaking succeeds at adopting guidelines to help state and local government entities make their web and mobile content more accessible, especially for documents and internally built web and mobile content. The requirements in the rulemaking are already in the Commonwealth's Digital Accessibility Policy. However, I believe that the two-year timeframe to come into compliance with the proposed technical guidelines will be difficult to meet for many because of the learning curve and the use of third-party built and hosted content.

Most persons in workforces have not received sufficient training to be properly equipped with the knowledge of what is needed in this space and with the required accessibility skills. We first need to teach them how accessibility impacts the work they do. We then need to teach them how to use new tools and features that will make them successful.

Once they are trained, we need to add accessibility steps to the processes that support the work they do. To be efficient and effective, accessibility work needs to be done from planning to implementation. Once launched, we can monitor progress using customer feedback.

The Commonwealth continues to work towards assuring that those third-party services comply with the Commonwealth's accessibility requirements so that the information and services provided by the Commonwealth are accessible.

Again, Chairman Casey, Ranking Member Braun, and Members of the Senate Special Committee on Aging, thank you for the opportunity to submit written testimony regarding Accessible Government Technology.

○