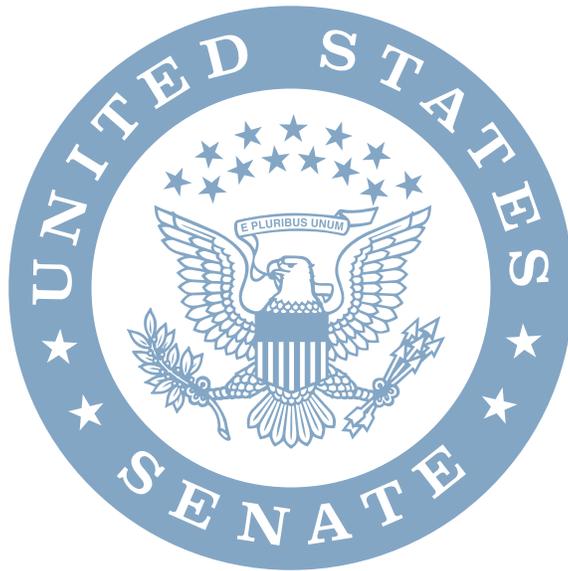


UNLOCKING THE VIRTUAL FRONT DOOR:

An Examination of Federal Technology's Accessibility for People with Disabilities, Older Adults and Veterans



A Report by the Majority Staff of
The U.S. Senate Special Committee on Aging





Note Regarding the Report

The following report was developed by the Majority staff of the Senate Special Committee on Aging (the Committee) at the direction of Chairman Casey. This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee.

In the text of this report, references to “the Committee” refer to activities undertaken jointly by Chairman Casey and Ranking Member Scott, such as the July 2022 hearing and a letter the senators sent jointly to the Department of Justice. References to “Majority staff” or “investigative staff” refer to activities undertaken by Chairman Casey’s staff.



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FORWARD



Dear Reader:

Over the last year, the Majority staff of the Senate Special Committee on Aging has examined the accessibility of the Federal government’s technology for people with disabilities. Ensuring Federal technology is accessible is a critical issue for older adults, who experience disabilities at higher rates than the general population. Accessibility is also critical as government information and services continue to move online—a trend accelerated by the COVID-19 pandemic. Based on sustained bipartisan oversight, the following staff report identifies accessibility gaps across the Federal government that affect people with disabilities, older adults and veterans, and sets out recommendations to address these ongoing problems.

The issue of inaccessible Federal technology came to my attention in 2018, when I heard from veterans with disabilities who had trouble accessing websites and kiosks at the Department of Veterans Affairs (VA). In response to those concerns, I passed bipartisan legislation in 2020 that required VA to report on the Department’s compliance with Section 508 of the Rehabilitation Act, which requires Federal websites, kiosks and other technology to be accessible for people with disabilities.¹ The report VA issued in response to the 2020 legislation showed that fewer than 10 percent of the agency’s websites were fully accessible for people with disabilities.²

The Aging Committee’s oversight has shown that these types of accessibility shortfalls are not limited to VA. Moreover, accountability measures Congress put in place when it amended Section 508 in the 1990s have not been carried out as intended, leaving taxpayers in the dark about the progress—or lack of progress—to make Federal government information and services accessible to everyone.

Inaccessible Federal technology impacts the everyday lives of Americans, including Pennsylvanians such as Ron Biglin, a retired Air Force Veteran who lives in Clarks Summit and is blind. He can fish, kayak and conduct online banking, yet he cannot access VA’s My HealthVet website with the screen reader provided to him by VA because the website is not accessible. As Mr. Biglin wrote to the Committee, “[w]hen you are visually impaired you want to be as independent as possible and having problems getting on VA websites takes away this independency.”³

¹ Department of Veterans Affairs Website Accessibility Act of 2019, P.L. 116-213, 134 Stat. 1024, <https://www.congress.gov/116/plaws/publ213/PLAW-116publ213.pdf>; and 29 U.S.C. §794d.

² Department of Veterans Affairs, *Report on the Accessibility of Websites of the Department of Veterans Affairs to Individuals with Disabilities*, at 2, https://www.casey.senate.gov/imo/media/doc/report_on_the_accessibility_of_websites_of_the_department_of_veterans_affairs1.pdf.

³ *Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans, Before the Senate Special Committee on Aging*, 117th Congress, at 112, 2022, statement of Ron Biglin, <https://www.govinfo.gov/app/details/CHRG-117shrg49440/CHRG-117shrg49440>.



Jule Ann Lieberman of Devon, Pennsylvania, is a specialist in technology for people with low vision and blindness. She is blind herself and uses screen reading software to access information online. Yet, during the peak of the COVID-19 pandemic, she could not interpret local COVID-19 prevalence data because the Centers for Disease Control and Prevention website was inaccessible. Instead, a family member had to read the information for her. But, as Ms. Lieberman noted in testimony to the Committee, “[r]epeated requests for help become burdensome for those who support me, potentially leaving me with either no access or not timely information.”⁴

People with other types of disabilities are impacted by inaccessibility as well, including those with hearing and cognitive disabilities. Ken Lebron, Director of Veterans Affairs for Berks County, Pennsylvania, related some considerations for people with cognitive disabilities: “Will they understand what they are seeing and reading? Will they know what to do next? How to follow up after a claim for benefits are (sic) submitted... [w]eb resources are flooded with information and scattered everywhere. Veterans don’t know where to go to find it all.”⁵

We would not ask someone using a wheelchair to walk up the courthouse steps. Yet, the government does something similar every time it asks people with disabilities to use inaccessible Federal websites, mobile apps and other technology. Over the last year, I have used my position as Chair of the Aging Committee to build bipartisan coalitions to push VA, the Department of Justice, and other agencies to ensure Federal technology is accessible for people with disabilities. Taxpayers deserve better, and I hope this report helps move the Federal government further toward being accessible for every person.

Sincerely,

Robert P. Casey, Jr.
United States Senator

⁴ *Id.*, at 50, statement of Jule Ann Liberman.

⁵ *Id.*, at 103, statement of Ken Lebron.



I. SECTION 508 OF THE REHABILITATION ACT

Section 508 of the Rehabilitation Act of 1973 mandates that Federal technology must be accessible for individuals with disabilities.¹ In 1986, in response to the Federal government’s growing use of technology, Congress acted in a bipartisan fashion to add Section 508 as an amendment to the Rehabilitation Act of 1973. Section 508 required the Federal government to develop accessibility guidelines for electronic equipment procured by the Federal government.² In 1998, Congress strengthened Section 508, again on a bipartisan basis, by adding provisions including more detailed accessibility requirements, enforcement mechanisms and reporting requirements.³

Section 508 requires Federal departments and agencies to ensure that people with disabilities have access to electronic and information technology that is comparable to the access provided to people without disabilities.⁴ It applies to technology “developed, procured, maintained, or used by federal agencies” and includes items such as “computers, telecommunications equipment, multifunction office machines . . . software, websites, information kiosks and transaction machines, and electronic documents.”⁵ Under Section 508, the U.S. Access Board (Access Board) is responsible for developing the accessibility standards that are incorporated into Federal regulations.⁶ Congress also tasked the Department of Justice (DOJ) with monitoring government-wide compliance with the law’s requirements, including issuing biennial reports to Congress and the White House.⁷

Section 508 has limitations—it does not apply to private businesses and non-profit organizations that are not Federal contractors.⁸ Section 508 also does not generally apply to state or local governments, though state governments that receive funding through certain Federal programs may have to apply Section 508 standards to those activities.⁹ However, private entities, as well as state and local governments, may be required to make their websites accessible under the Americans with Disabilities Act (ADA).¹⁰ Section

¹ 29 U.S.C. §794d; and “Policy & Management, IT Accessibility Laws and Policy,” General Services Administration, last modified November 2022, <https://www.section508.gov/manage/laws-and-policies/>.

² Rehabilitation Act Amendments of 1986, P.L. No. 99-506, 100 STAT. 1830, <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg1807.pdf#page=24>.

³ Department of Education, *Q&A, Title IV—Rehabilitation Act Amendments of 1998, Section 508: Electronic and Information Technology*, at 1, <https://www.justice.gov/sites/default/files/crt/legacy/2009/02/18/deptofed.pdf>. Congress revised the authorized date for filing a claim under Section 508 in 2000 (P.L. 106–246).

⁴ 29 U.S.C. §794d(a)(1)(A).

⁵ “Information and Communication Technology, Revised 508 Standards and 255 Guidelines,” Access Board, accessed November 29, 2022, <https://www.access-board.gov/ict/>. Note that Section 508 borrows its definition of “electronic and information technology” from Title 40 of the United States Code. See 29 U.S.C. §794d(a)(2)(A)(i); and “Public Buildings, Property, and Works.” *Code of Federal Regulations*, Title 40, 2020, at 204, <https://www.govinfo.gov/content/pkg/USCODE-2020-title40/pdf/USCODE-2020-title40-subtitleIII-chap111-sec11101.pdf>.

⁶ 29 U.S.C. §794d(a)(2); and “About the U.S. Access Board,” Access Board, accessed November 29, 2022, <https://www.access-board.gov/law/ra.html#section-508-Federal-electronic-and-information-technology>.

⁷ 29 U.S.C. §794d(d)(1).

⁸ “Do Section 508 Accessibility Standards Apply to My Website?,” General Services Administration, last modified December 12, 2017, <https://www.section508.gov/blog/do-section-508-accessibility-standards-apply-to-mywebsite/>.

⁹ For example, states receiving grants through the Assistive Technology Act of 2004 (P.L. 108-364) are required to comply with Section 508 standards for activities funded by the grants. See *id.*, and Natalie Ortiz, *Application of Section 508 of the Rehabilitation Act of 1973 to States*, Congressional Research Service Memorandum, November 18, 2022, at 2 [on file with the Committee].

¹⁰ Specifically, Title II of the Americans with Disabilities Act (42 U.S.C. §12131) may apply to websites run by state and local governments, while Title III of the Americans with Disabilities Act (42 U.S.C. §12182) may apply to websites run by private businesses and non-profits. See “Justice Department Issues Web Accessibility Guidelines Under the Americans with Disabilities Act,” Department of Justice, last modified June 23, 2022, <https://www.justice.gov/opa/pr/justice-department-issues-web-accessibility-guidance-under-americans-disabilities-act>; see also April J. Anderson, *The Americans with Disabilities Act in Cyberspace: ADA Applicability to Websites*, Congressional Research Service, October 20, 2022, <https://crsreports.congress.gov/product/pdf/LSB/LSB10844>; and *supra*, note 8.



504 of the Rehabilitation Act of 1973,¹¹ which prohibits people from being excluded from Federal programs or benefits based on a disability, may also apply in cases where a private, state, or local entity has received Federal funding.¹² Furthermore, many states have adopted laws similar to Section 508 that require technology to be accessible to people with disabilities.¹³

The Bipartisan Push for Accessible Federal Technology

Section 508 has a history of bipartisan support, which stemmed from a growing awareness of the importance of equal access to electronic technology. During Senate debate on the Rehabilitation Act Amendments of 1986,¹⁴ Senator Paul Simon (D-IL), underscored the bipartisan collaboration in a floor statement, saying:

I want to compliment Senator [Orrin] Hatch and his staff for taking the initiative on providing a new section of the act requiring the development and adoption of guidelines for electronic equipment accessibility.... Our economy has changed greatly over the past decade, becoming an “information society.” Today we see that it is as important for disabled persons to be able to use the technology housed within accessible buildings as it is for the buildings themselves to be accessible.¹⁵

Senator Hatch (R-UT), also discussed the new amendment, commenting that:

In response to the special needs of individuals with handicaps, Congress passed laws to require that programs and buildings are accessible. Now that architectural barriers are being eliminated, it is important that the equipment housed within these facilities is also accessible to individuals with handicaps. Many current standard microcomputer software programs, copy machines, and other automated office equipment cannot be used by disabled people. With appropriate low cost and no cost modification, the number of individuals who could use such equipment would multiply significantly.¹⁶

President Reagan signed the legislation that created Section 508 on October 21, 1986.¹⁷ In the years that followed, there was a major shift in the way the Federal government did business. More Federal agencies moved online to administer programs and distribute information. By 1997, a General Accounting Office audit identified roughly 4,300 websites across 42 organizations in the Federal government.¹⁸ The audit found that Federal organizations benefited from the internet through better

¹¹ 29 U.S.C. §794.

¹² *Id.*; and *supra*, note 8.

¹³ *The Promise of Accessible Technology: Challenges and Opportunities, Before the Senate Committee on Health, Education, Labor, and Pensions*, 112th Congress, at 11, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112shrg88669/pdf/CHRG-112shrg88669.pdf>, statement of Eve Hill. “In addition, since the enactment of section 508, at least 20 States have adopted their own versions of section 508, requiring State agencies to buy accessible technologies.”

¹⁴ Congress ultimately added Section 508 to the Rehabilitation Act of 1973 as part of H.R. 4021, the House version of the Rehabilitation Act Amendments of 1986 (P.L. 99-506). However, the measure creating Section 508 originated in the Senate and was added to H.R. 4021 in conference. *See* H.R. Report No. 99-955, at 72, 1986, Conference Report.

¹⁵ 132 Congressional Record, at S22301, Daily Edition, September 8, 1986, statement of Senator Simon, <https://www.congress.gov/99/crecb/1986/09/08/GPO-CRECB-1986-pt16-1-2.pdf>.

¹⁶ *Id.*, statement of Senator Hatch.

¹⁷ “H.R. 4021 – Rehabilitation Act Amendments of 1986,” Congress.gov, last accessed December 1, 2022, <https://www.congress.gov/bill/99th-congress/house-bill/4021/actions>; *see also* Associated Press, “President Signs Bill Making State Liable for Bias Suits,” October 21, 1986 (Lexis).

¹⁸ General Accounting Office, *Supplement: World Wide Web Sites Reported by Federal Organizations*, June 1997, at 1, <https://www.gao.gov/assets/ggd-97-86s.pdf>. Congress changed the name of the General Accounting Office to the Government Accountability Office in 2004.



internal and external communication and the ability to reach a wider audience.¹⁹ Federal government information and services had begun to move online, so it became essential for that information and those services to be accessible to all.

The General Accounting Office audit cited numerous agencies that were harnessing this technology in the 1990s: The National Institutes of Health could “share a wealth of medical information with the public.”²⁰ The Federal Communications Commission “implemented electronic filing on a limited basis.”²¹ The National Science Foundation websites “reduced the number of status inquiry phone calls, reduced staff time in performing data entry, and has allowed for timely and accurate transfer of data.”²² The Internal Revenue Service (IRS), meanwhile, shifted more taxpayer services online in 1996, placing “more emphasis on providing telephonic and computer-oriented services (such as a new World Wide Web site on the Internet) while walk-in, face-to-face assistance was deemphasized.”²³ During the 1996 tax filing season, it generally took two to three weeks for tax filing materials to arrive if they were ordered by telephone, but the same forms could be downloaded via the internet.²⁴

As new technology was becoming central to how the government administered programs and how the public accessed them, Federal technology needed to be accessible in order for people with disabilities to have equal access. There were concerns, however. Accessibility advocates and disability stakeholders felt that Section 508 lacked teeth.²⁵ In response, Representative Anna Eshoo (D-CA) and Senator Chris Dodd (D-CT) introduced the Federal Electronic and Information Technology Accessibility Compliance Act of 1997.²⁶ Upon introducing the legislation, Representative Eshoo focused on the need to protect Federal employees in a changing work environment, stating:

Information technology has played a large role in opening jobs in the Federal Government and elsewhere to people with disabilities. . . . However, information technology can also shut the door to employment for people with disabilities if (sic) isn’t accessible to them. . . . Web sites with heavy graphics content, for instance, may not be designed to be compatible with software commonly used by people who are blind or visually impaired to read information on computer screens. So it is imperative to Federal employees with disabilities for Federal agencies to purchase information technology that gives them a chance to do their jobs instead of cutting them off from full participation in the work force.²⁷

¹⁹ General Accounting Office, *Internet and Electronic Dial Up Bulletin Boards, Information Reported by Federal Organizations*, June 1997, at 9 (hereinafter “Federal Internet Use Audit”), <https://www.gao.gov/assets/ggd-97-86.pdf>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ General Accounting Office, *IRS’ 1996 Tax Filing Season, Performance Goals Generally Met; Efforts to Modernize Had Mixed Results*, December 1996, at 4, <https://www.gao.gov/assets/ggd-97-25.pdf>.

²⁴ *Id.*, at 6.

²⁵ Peter H. Lewis, “The Executive Computer; An Awareness of Disabled Workers,” *New York Times*, April 30, 1989, <https://www.nytimes.com/1989/04/30/business/the-executive-computer-an-awareness-of-disabled-workers.html>.

²⁶ That bill was introduced as H.R. 1255 in the House and S. 761 in the Senate. See “H.R. 1255 – Federal Electronic and Information Technology Accessibility Compliance Act of 1997,” Congress.gov, last accessed December 1, 2022, <https://www.congress.gov/bill/105th-congress/house-bill/1255?q=%7B%22search%22%3A%22Federal+Electronic+and+Information+Technology+Accessibility+Act%22%7D>; see also “S. 761 – Federal Electronic and Information Technology Accessibility Compliance Act of 1997,” Congress.gov, last accessed December 1, 2022, <https://www.congress.gov/bill/105th-congress/senate-bill/761>.

²⁷ 143 Congressional Record, at E16, Daily Edition, April 9, 1997, statement of Representative Eshoo, <https://www.congress.gov/105/crc/1997/04/09/CREC-1997-04-09-pt1-PgE616-2.pdf>.



The Rehabilitation Act Amendments of 1998, introduced by Senator Mike DeWine (R-OH) and cosponsored by four Republicans and seven Democrats, included negotiated changes to the Eshoo-Dodd legislation.²⁸ The Senate Committee on Labor and Human Resources discharged the legislation unanimously,²⁹ signaling significant bipartisan buy-in from the committee’s members, including Senator Susan Collins (R-ME), and future Republican Leaders Senator Bill Frist (R-TN) and Senator Mitch McConnell (R-KY). Ultimately, a Republican-led Congress passed the Rehabilitation Act Amendments as part of H.R. 1385, the Workforce Investment Act of 1998 (P.L. 105-220).³⁰

The 1998 amendments made a number of important changes. They moved responsibility for Section 508’s accessibility guidelines from the General Services Administration (GSA) to the Access Board, an independent Federal office that focuses specifically on accessibility for people with disabilities.³¹ The amendments added stronger language directing departments and agencies to make their technology accessible, and created a complaint process to enforce that requirement.³² The 1998 amendments also established oversight mechanisms to track the government’s progress toward making its technology accessible. For example, they required the Attorney General to submit biennial reports to the President and Congress “containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements [of Section 508] ... including actions regarding individual complaints.”³³ Federal departments or agencies are required to provide information to DOJ that is necessary for those reports.³⁴

Senator Dodd discussed the updates to Section 508 during floor debate for the conference report saying:

Electronic and information technology accessibility is essential for federal employees to maintain a meaningful employment experience, as well as to meet their full potential. We live in a world where information and technology are synonymous with professional advancement. Increasingly, essential job functions have come to involve the use of technology, and where it is inaccessible, job opportunities that others take for granted are foreclosed to people with disabilities.³⁵

President Clinton signed the amendments to Section 508 into law on August 7, 1998.³⁶ While Congressional advocates focused on supporting Federal workers, the enhanced protections applied to any person using Federal technology. In 1999, *The New York Times* reported:

Disabled rights activists say Section 508 is important because it seeks to ensure that the disabled are not left behind as a wealth of federal government information, from weather

²⁸ “S. 1579 – Rehabilitation Act Amendments of 1998,” Congress.gov, last accessed December 1, 2022, <https://www.congress.gov/bill/105th-congress/senate-bill/1579>.

²⁹ Committee on Labor and Human Resources, Rehabilitation Act Amendments of 1998, S. Report No 105-166, at 7, <https://www.congress.gov/105/crpt/srpt166/CRPT-105srpt166.pdf>.

³⁰ The Rehabilitation Act Amendments of 1998 was included as Title IV of H.R. 1385. See The Workforce Investment Act of 1998, P.L. No 105-220, 112 Stat. 936, <https://www.congress.gov/105/plaws/publ220/PLAW-105publ220.pdf>.

³¹ Congress initially created the Access Board to help ensure that federal buildings meet physical accessibility standards. See “About the U.S. Access Board,” Access Board, accessed December 1, 2022, <https://www.access-board.gov/about/history.html>.

³² 29 U.S.C. §794d(a)(1)(A) and 29 U.S.C. §794d(f).

³³ *Supra*, note 30; see also 29 U.S.C. §794d(d)(2).

³⁴ 29 U.S.C. §794d(e).

³⁵ 105 Congressional Record, at S9492, Daily Edition, July 30, 1998, statement of Senator Dodd, <https://www.congress.gov/105/crec/1998/07/30/CREC-1998-07-30-pt2-PgS9489.pdf>.

³⁶ “H.R. 1385 – Workforce Investment Partnership Act of 1998,” Congress.gov, last accessed December 1, 2022, <https://www.congress.gov/bill/105th-congress/house-bill/1385/actions>.



data to federal income tax law changes, move online. “Why should the government do it?” said Lawrence A. Scadden, a senior program director for the National Science Foundation who also served as chairman of a Section 508 advisory committee to the Access Board. “The government is there to serve the people. We have passed the period in time where the federal government can decide who it serves and who it leaves out.”³⁷

Nearly a quarter-century later, Americans with disabilities are still being left out when it comes to accessing Federal information and services online. This report details multiple examples of agencies that have failed to make their technology accessible to people with disabilities, as required by law. Enforcement within agencies and across the Federal government is uneven and it can take years to resolve Section 508 violations and complaints. The Department of Justice (DOJ) has not met its reporting obligations set out by Section 508, and information being collected by the GSA about the accessibility of agency technology is not released to the public, despite being regularly collected.

³⁷ Pamela Mendels, “U.S. Law Aims at Helping Disabled,” *New York Times*, November 12, 1999, <https://archive.nytimes.com/www.nytimes.com/library/tech/99/11/cyber/articles/12access.html>.



II. THE CHANGING LANDSCAPE OF FEDERAL TECHNOLOGY

When Congress created Section 508 in the 1980s, members of both parties recognized the rapidly growing role that computer and information technology was playing in the lives of Americans. When the law was updated in 1998, bipartisan members of Congress again acknowledged that the world was in the midst of an online revolution, which has only accelerated since that time.

In 1998, a Pew Research Center survey found that only 41 percent of American adults went online.³⁸ Facebook and Twitter did not exist. Smartphones were in their infancy.³⁹ Today, 93 percent of American adults go online, 85 percent own a smartphone, and 72 percent use social media.⁴⁰ As technology changed, so too did America’s online habits—and the country’s needs from government websites and technology.

Federal services and information that began to go online in the 1990s have continued migrating to the web—a trend accelerated by the COVID-19 pandemic. Federal websites, apps, and other technology have become the “key” for unlocking the government’s virtual front door. That door has the potential to open access to services such as Social Security, Medicare, and veterans’ benefits, as well as information like public health data. However, when Federal technology is not accessible for people with disabilities, those individuals are “locked out”—they cannot open the virtual front door and are left at a disadvantage compared to their non-disabled peers. Such inaccessibility has real world consequences, as highlighted in a recent Government Accountability Office (GAO) audit showing that Social Security claims, including for disability benefits, declined when the agency’s services were offered online during the COVID-19 pandemic.⁴¹

Demographic changes mean more Americans will be at a disadvantage if Federal technology is not made more widely accessible. Roughly 61 million Americans live with a disability today, meaning that accessible Federal technology is already important for equal access to programs and information.⁴² However, older adults are more likely to have a disability than the general population, and the number of older Americans is expected to increase by roughly 38 million people over the next 40 years.⁴³ If Federal

³⁸ “The Internet News Audience Goes Ordinary,” Pew Research Center, January 14, 1999, <https://www.pewresearch.org/politics/1999/01/14/the-internet-news-audience-goes-ordinary/>.

³⁹ IBM is credited by some with releasing the first ever smartphone, the “Simon,” in 1994. The Simon featured a touchscreen and had email capability. It also had no web browser and a battery life of one hour. Roughly 50,000 of them were sold. See Rob Smith, “IBM Created the World’s First Smartphone 25 Years Ago,” World Economic Forum, March 13, 2018, <https://www.weforum.org/agenda/2018/03/remembering-first-smartphone-simon-ibm/>; and Doug Aamoth, “First Smartphone Turns 20: Fun Facts About Simon,” *Time*, August 18, 2014, <https://time.com/3137005/first-smartphone-ibm-simon/>. Research in Motion’s first BlackBerry mobile communications device was introduced in 1999, but cellphone capabilities were not added until 2002. See “BlackBerry, Wireless Device,” Britannica, last accessed December 1, 2022, <https://www.britannica.com/technology/BlackBerry-wireless-device>.

⁴⁰ Andrew Perrin and Sara Atske, “7% of Americans Don’t Use the Internet. Who Are They?,” Pew Research Center, April 2, 2021, <https://www.pewresearch.org/fact-tank/2021/04/02/7-of-americans-dont-use-the-internet-who-are-they/>; “Mobile Fact Sheet,” Pew Research Center, April 7, 2021, <https://www.pewresearch.org/internet/fact-sheet/mobile/>; “Social Media Fact Sheet,” Pew Research Center, April 7, 2021, <https://www.pewresearch.org/internet/fact-sheet/social-media/>.

⁴¹ The Social Security Administration closed its offices in response to the COVID-19 pandemic, resulting in limited opportunities for in-person visits. The Social Security Administration expanded remote service through telephone, mail, video, and the internet. See Government Accountability Office, *Social Security Administration, Remote Service Delivery Increased During COVID-19, But More Could Be Done to Assist Vulnerable Populations*, November 2022, at GAO Highlights, <https://www.gao.gov/assets/gao-23-104650.pdf>.

⁴² “Disability Impacts All of Us,” Centers for Disease Control and Prevention, last modified October 28, 2022, <https://www.cdc.gov/nceh/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html#:~:text=61%20million%20adults%20in%20the,is%20highest%20in%20the%20South>.

⁴³ *Id.*; Administration for Community Living, *2020 Profile of Older Americans*, May 2021, at 5, https://acl.gov/sites/default/files/Profile%20of%20OA/2020ProfileOlderAmericans_RevisedFinal.pdf; United States Census, 2021 American Community Survey, Age and Sex, <https://data.census.gov/cedsci/table?tid=ACSST1Y2021.S0101>.



technology is not made accessible for people with disabilities, these older Americans could have trouble accessing important government programs, services, and information on which many rely.

The Importance of Accessible Technology

When designed properly, accessible technology can enable people with disabilities to independently access information and services, making it possible for them to live their lives without needing assistance.⁴⁴ That type of independence is important for older adults who wish to age in place as they grow older, an idea that is overwhelmingly popular among Americans. A 2021 survey from AARP found that about three-quarters of respondents over age 50 wanted to stay in their homes for as long as possible.⁴⁵ Accessible government websites and technology are an important component needed to allow older adults to age in place.

Accessible technology is also vital for people who seek to join the Federal workforce. According to the U.S. Equal Employment Opportunity Commission, roughly 9 percent of Federal employees reported having a disability in fiscal year 2018.⁴⁶ Yet, inaccessible Federal technology can hinder their advancement and opportunity. In 2022, the Senate Special Committee on Aging (the Committee) received testimony describing how software that was not accessible impacted a blind Federal employee's career:

I have also represented a federal employee who was experiencing access issues with Business Intelligence software used by his agency, to the point that he was unable to do his job without sighted assistance. This kept him from advancing in his career, being promoted beyond a GS13 position in 13 years, getting more advanced training, and from taking on more job responsibilities.⁴⁷

While the employee was provided help from another person who was not blind (“sighted assistance”), relying on that type of help means “blind employees ... cannot work at the hours he or she wants, cannot work after hours, and cannot navigate the information efficiently.”⁴⁸

People with disabilities continue to encounter problems with Federal technology, even though making Federal technology accessible is cost-effective and has the potential to benefit all Americans. The GSA has noted that it is cheaper to make websites accessible from the start compared to adding accessibility features later.⁴⁹ For example, the Department of Veterans Affairs (VA) incurred more than \$34,000 of additional costs when it failed to “address nearly 200 known Section 508 compliance issues and did not seek certification of compliance prior to the deployment” of an educational website, which was launched without being accessible to people with disabilities, according to a 2016 inspector general audit.⁵⁰ In addition to the benefits for people with disabilities and government cost savings,

⁴⁴ Click Here: *Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans, Before the Senate Special Committee on Aging*, 117th Congress, at 45, 2022, statement of Anil Lewis (hereinafter “Aging Accessible Technology Hearing”), <https://www.govinfo.gov/app/details/CHRG-117shrg49440/CHRG-117shrg49440>.

⁴⁵ Joanne Binette, “Where We Live, Where We Age: Trends in Home and Community Preferences,” AARP, November 2021, <https://www.aarp.org/research/topics/community/info-2021/2021-home-community-preferences.html>.

⁴⁶ Equal Employment Opportunity Commission, *The EEO Status of Workers with Disabilities in the Federal Sector*, at Part 2, https://www.eeoc.gov/federal-sector/reports/eo-status-workers-disabilities-federal-sector#_Toc99029519.

⁴⁷ *Supra*, note 44, Aging Accessible Technology Hearing, at 93, statement of Deepa Goraya.

⁴⁸ *Id.*, at 93-94.

⁴⁹ “Benefits of Accessible Design,” General Services Administration, last accessed December 1, 2022, <https://www.section508.gov/blog/benefits-accessible-design/>.

⁵⁰ Department of Veterans Affairs Office of Inspector General, *Review of Alleged Noncompliance With Section 508 of the Rehabilitation*



accessible technology also benefits people without disabilities by making information and services more accessible to the general public, similar to how curb cuts smooth the ability of bikers or someone pushing a stroller to navigate sidewalks and streets.⁵¹ For example, an accessible website will also benefit someone using a device with a small screen, someone with a broken arm, or someone watching a video in a noisy environment.⁵²

There is little recent information about accessible technology across the Federal government, due in part to DOJ's failure to issue biennial reports required by Section 508. However, the information that is available suggests there have been accessibility problems for years. A 2011 academic study found that, when inspected by humans, only four out of 100 Federal website home pages were free of accessibility problems.⁵³ The most recent DOJ report, issued in 2012, identified substantial gaps in Section 508 compliance across the Federal government, including "mixed levels of success" with general processes for Section 508 implementation.⁵⁴ A third-party study issued in 2021, meanwhile, found that 30 percent of the most popular Federal websites did not pass an automated accessibility test for the agency home pages.⁵⁵ The same study found that 48 percent of the most popular Federal websites failed the test on at least one of their three most popular pages.⁵⁶ In 2022, testimony from a representative of the National Federation of the Blind (NFB) highlighted lawsuits related to allegedly inaccessible technology at several different Federal agencies over the past decade.⁵⁷ Those agencies included the Social Security Administration (SSA), the Centers for Medicare and Medicaid Services (CMS), and VA.⁵⁸

Senator Casey's Oversight of Federal Technology Accessibility

Given these concerns, Senator Casey led bipartisan efforts throughout 2022 to investigate the Federal government's compliance with Section 508 via the following actions:

- **March 2022:** Investigative staff convened a bipartisan staff briefing from VA regarding the reports required by the VA Website Accessibility Act (P.L. 116-213). The briefing was attended by bipartisan staff from the Committee, as well as the House and Senate committees on Veterans' Affairs.
- **June 2022:** (1) Senator Casey led a bipartisan, bicameral letter to VA Secretary Denis McDonough.⁵⁹ This letter asked VA to improve compliance with Section 508, as well as to provide Congress with more information and updated remediation plans. (2) Senator Casey

Act on MyCareer@VA Web Site, April 7, 2016 (VA OIG 15-02781-153) (hereinafter "VA OIG Report"), <https://www.oversight.gov/sites/default/files/oig-reports/VAOIG-15-02781-153.pdf>.

⁵¹ *Supra*, note 44, Aging Accessible Technology Hearing, at 96, statement of Jonathan Lazar.

⁵² "Introduction to Web Accessibility," W3C, last accessed December 2, 2022, <https://www.w3.org/WAI/fundamentals/accessibility-intro/>.

⁵³ Abiodun Olalere and Jonathan Lazar, "Accessibility of U.S. Federal Government Home Pages: Section 508 Compliance and Site Accessibility Statements," *Government Information Quarterly*, 28, May 13, 2011, at 305.

⁵⁴ "Section 508 Report to the President and Congress," Department of Justice, accessed through Internet Archive on December 1, 2022, (hereinafter "DOJ Report"). https://web.archive.org/web/20220901042806/https://www.ada.gov/508/508_Report.htm.

⁵⁵ Ashley Johnson and Daniel Castro, "Improving Accessibility of Federal Government Websites," Information Technology & Innovation Foundation, June 3, 2021 (hereinafter "ITIF report"), <https://itif.org/publications/2021/06/03/improving-accessibility-Federal-government-websites>.

⁵⁶ *Id.*

⁵⁷ *Supra*, note 44, Aging Accessible Technology Hearing, at 46-47, statement of Anil Lewis.

⁵⁸ *Id.*

⁵⁹ "Casey Leads Bipartisan Letter Urging Veterans Affairs to Make Websites Accessible for People with Disabilities," Senate Special Committee on Aging, June 7, 2022, <https://www.aging.senate.gov/press-releases/casey-leads-bipartisan-letter-urging-veterans-affairs-to-make-websites-accessible-for-people-with-disabilities>.



led a bipartisan letter to Attorney General Merrick Garland.⁶⁰ This letter asked DOJ to restart its monitoring of the accessibility of Federal technology and begin issuing the biennial reports required by Section 508.⁶¹ In response to the letter, DOJ committed to issue the statutorily mandated reports.⁶²

- **July 2022:** The Committee held a hearing that explored website and tech accessibility across the Federal government.⁶³ Witnesses discussed the problems caused by inaccessible Federal technology and provided recommendations for ensuring Federal technology is accessible.
- **August 2022:** Senator Casey led a bipartisan letter to Comptroller General Eugene L. Dodaro.⁶⁴ This letter requested the GAO conduct a study regarding Federal compliance with accessible technology laws and how the government evaluates whether agencies are meeting those requirements.
- **September 2022:** Investigative staff convened a second briefing from VA regarding the status of their Section 508 remediation efforts. This briefing was also attended by bipartisan House and Senate Veterans' Affairs committee staff.
- **October 2022:** (1) Senator Casey led a follow-up letter to Secretary McDonough regarding continuing concerns about the accessibility of VA technology following the Department's response to the June 2022 letter.⁶⁵ (2) Senator Casey led a bipartisan letter to the GSA, calling on the agency to release data it collects and analyzes regarding the government's compliance with Section 508 requirements.⁶⁶
- **December 2022:** Investigative staff convened a third briefing from VA regarding the status of their Section 508 remediation efforts. This briefing was also attended by bipartisan House and Senate Veterans' Affairs committee staff.

The oversight efforts listed above have been overwhelmingly bipartisan, demonstrating the continued shared interest in leveling the playing field for millions of Americans living with disabilities. In total, the letters have been signed by 13 senators and six members of the House, including the Chairs and Ranking Members of five Senate committees, one House committee, and two House subcommittees. Copies of the letters referenced above are in Appendix A.

⁶⁰ "Casey Leads Bipartisan Letter Demanding Answers from Department of Justice on Lack of Web Accessibility for People with Disabilities," Senate Special Committee on Aging, June 30, 2022, <https://www.aging.senate.gov/press-releases/casey-leads-bipartisan-letter-demanding-answers-from-department-of-justice-on-lack-of-web-accessibility-for-people-with-disabilities>.

⁶¹ 29 U.S.C. §794d(d)(2).

⁶² Shruti Rajkumar, "DOJ Promises to Resume Filing Federal Website Accessibility Reports," *HuffPost*, November 18, 2022, https://www.huffpost.com/entry/department-of-justice-website-accessibility-compliance_n_6377124ce4b07a02ca81b517; "Casey, Scott, Durbin, Duckworth Announce Department of Justice Commitment to Conduct Web Accessibility Report," Senate Special Committee on Aging, November 21, 2022, <https://www.aging.senate.gov/press-releases/casey-scott-durbin-duckworth-announce-department-of-justice-commitment-to-conduct-web-accessibility-report>.

⁶³ *Supra*, note 44, Aging Accessible Technology Hearing.

⁶⁴ "Casey Leads Bipartisan Letter to Government Watchdog Urging Examination of Lack of Web Accessibility Across Federal Government," Senate Special Committee on Aging, August 11, 2022, <https://www.aging.senate.gov/press-releases/casey-leads-bipartisan-letter-to-government-watchdog-urging-examination-of-lack-of-web-accessibility-across-federal-government>. GAO has accepted the request and indicated it plans to commence audit work in 2023. Subsequent to the letter being sent to GAO, Senators Durbin and Grassley, the Chair and Ranking Member of the Senate Judiciary Committee, respectively, joined the request.

⁶⁵ "Casey, Tester, Takano: Veterans Affairs Must Do More to Make VA Websites Accessible for People with Disabilities," Senate Special Committee on Aging, October 7, 2022 (hereinafter "Joint October Letter to VA"), https://www.aging.senate.gov/imo/media/doc/october_7_letter_to_secretary_mcdonough_re_va_section_508_compliance.pdf.

⁶⁶ Letter from Senator Casey, et al., to Robin Carnahan, October 7, 2022 (hereinafter "Joint Letter to GSA"), https://www.aging.senate.gov/imo/media/doc/letter_to_gsa_administrator_robin_carnahan_re_section_508_compliance.pdf.



III. WHAT MAKES A WEBSITE ACCESSIBLE?

Section 508 requires all Federal electronic and information technology to be accessible to—and usable by—people with disabilities. Section 508 accessibility standards apply to information and communications technology including computer hardware and software, websites, multimedia (including video with sound), phone systems, and copiers.⁶⁷ Therefore, it is important to remember that accessible technology does not begin and end with websites.

However, websites have evolved to serve as key gateways of Federal information and supports that must be available to everyone in the United States. In order to ensure universal access to Federal information and services, it is critical that all website elements, including graphics, videos, documents, and apps, can be accessed by individuals with disabilities, particularly those who use assistive technology.

Similar to buildings without ramps or elevators, inaccessible websites present obstacles to Federal information, services, and communication for a broad population of people with disabilities.⁶⁸ This section of the report describes some mandatory web design requirements and some best practices that authors and web designers should consider to offer the broadest access possible to all users, including people with disabilities.

As discussed in an earlier section, it is best to design and develop accessibility into all technology, including websites, from the start. If websites are designed with accessibility in mind, they can be used by people with a wide range of disabilities, including those who are blind, low vision, deaf, hard of hearing, and people with cognitive, physical, speech, and neurological limitations.

Ideally, accessible websites work seamlessly with users' assistive technology. Three examples of frequently used assistive technologies include the following:

- **Screen reading or text-to-speech software** is used by people who are blind, with low vision or cognitive disabilities. This technology speaks aloud the text in digital documents and websites. There also is an option to send text to hardware known as a dynamic braille display.⁶⁹
- **Screen magnifiers** enlarge text and images for people with some types of low vision.⁷⁰
- **Speech recognition software** enables access to digital documents and websites for individuals with limited manual dexterity or vision who cannot use a keyboard or a mouse. Users speak into a microphone, converting speech into text, and use voice commands to navigate throughout various computer functions. In some cases, a person may also use an alternative switch to activate various computer functions. Overall, this software provides users access to websites, can create and edit documents or emails, launch applications, and open files.⁷¹

⁶⁷ "Information and Communication Technology," Access Board, last accessed December 1, 2022, <https://www.access-board.gov/ict.html#:~:text=The%20Section%20508%20Standards%20apply,%2C%20phone%20systems%2C%20and%20copiers>.

⁶⁸ "Guidance on Web Accessibility and the ADA," Department of Justice, March 18, 2022, <https://beta.ada.gov/resources/web-guidance/>. See also the following blog post, which likens using a screen reader to entering a darkened room: Ryan Jones, "A Tale of Two Rooms: Understanding Screen Reader Navigation," TPGi, January 25, 2018, <https://www.tpgi.com/a-tale-of-two-rooms-understanding-screen-reader-navigation/>.

⁶⁹ "Tools and Techniques," W3C, last updated May 15, 2017, <https://www.w3.org/WAI/people-use-web/tools-techniques/>.

⁷⁰ *Id.*

⁷¹ *Id.* Note that this website contains several examples of assistive technologies and adaptive strategies, as well as stories of people who make use of them, which help illustrate how people with disabilities use the internet.



Federal Accessibility Requirements

There are specific legal standards that Federal websites must meet to ensure accessibility and usability for people with disabilities. Under Section 508, Federal websites must follow accessibility standards set by the Access Board.

In January 2017, the Access Board adopted a set of international technical standards known as Web Content Accessibility Guidelines 2.0 (WCAG 2.0), which had been developed in 2008.⁷² WCAG standards are set by the World Wide Web Consortium (W3C), a non-governmental entity.⁷³ While W3C updated the WCAG standards in 2018, the Access Board has yet to issue a rule to update the Federal government to the new WCAG standards.⁷⁴ W3C plans another update, to WCAG 2.2, in early 2023.⁷⁵

There are three levels of website accessibility conformance under WCAG 2.0: Level A (the lowest), Level AA, and Level AAA (the highest).⁷⁶ The Access Board's final rule requires the Federal government to meet Level A and Level AA success criteria and conformance requirements, including, for example, alternatives for non-text content; captions and audio description for prerecorded media; and strong color contrast between foreground and background text.⁷⁷ In general, the success criteria adopted by the Access Board for Section 508 seek to maximize access for people with physical, sensory, or cognitive disabilities.⁷⁸

While automated tools are available and can help agencies scan for Section 508 violations, they may not detect all accessibility violations.⁷⁹ Therefore, a webpage that has been evaluated only by scanning software, as opposed to trained human testers, may be less accessible than machine-only testing results suggest. Some departments and agencies use the "Trusted Tester" program developed by the Department of Homeland Security, which provides testers with standardized training to evaluate the accessibility of websites.⁸⁰

⁷² "Information and Communication Technology, Revised 508 Standards and 255 Guidelines," Access Board, at E205.4, last accessed December 1, 2022, <https://www.access-board.gov/ict/#E205.4>; "Web Content Accessibility Guidelines (WCAG) 2.0," W3C, last accessed December 1, 2022, <https://www.w3.org/TR/WCAG20/>; Architectural and Transportation Barriers Compliance Board, "Information and Communication Technology (ICT) Standards and Guidelines," *Federal Register* 82, No. 11, January 18, 2017, <https://www.govinfo.gov/content/pkg/FR-2017-01-18/pdf/2017-00395.pdf>; "WCAG 2 Overview," W3C, last updated November 1, 2022, <https://www.w3.org/WAI/standards-guidelines/wcag/>.

⁷³ "About W3C," W3C, last accessed December 1, 2022, <https://www.w3.org/Consortium/>.

⁷⁴ "WCAG 2 Overview," W3C, last updated November 1, 2022, <https://www.w3.org/WAI/standards-guidelines/wcag/>.

⁷⁵ *Id.*

⁷⁶ "Web Content Accessibility Guidelines (WCAG) 2 Level A Conformance," W3C, last updated July 13, 2020, <https://www.w3.org/WAI/WCAG2A-Conformance>.

⁷⁷ "Web Content Accessibility Guidelines (WCAG) 2.0," W3C, last accessed December 1, 2022, <https://www.w3.org/TR/WCAG20/>; "Information and Communication Technology, Revised 508 Standards and 255 Guidelines," Access Board, at E205.4, last accessed December 1, 2022, <https://www.access-board.gov/ict/#E205.4>; "Web Content Accessibility Guidelines (WCAG) 2.0," W3C, last accessed December 1, 2022, <https://www.w3.org/TR/WCAG20/>; and Architectural and Transportation Barriers Compliance Board, "Information and Communication Technology (ICT) Standards and Guidelines," *Federal Register* 82, No. 11, January 18, 2017, at 5834 <https://www.govinfo.gov/content/pkg/FR-2017-01-18/pdf/2017-00395.pdf>.

⁷⁸ "Information and Communication Technology, Revised 508 Standards and 255 Guidelines," Access Board, last accessed December 1, 2022 (hereinafter "Revised 508 Standards"), <https://www.access-board.gov/ict/#about-the-ict-accessibility-standards>.

⁷⁹ "Overview of Testing Methods for 508 Conformance," General Services Administration, last updated May 2018, <https://www.section508.gov/test/testing-overview/>.

⁸⁰ "How to Test Websites for Accessibility," Digital.gov, last updated on June 21, 2022, <https://digital.gov/resources/how-test-websites-for-accessibility/?dg>.



Design Elements to Improve Website Accessibility

The descriptions that follow are general design elements that can make a website more accessible to people with disabilities. Not all of these design elements are required to meet the WCAG 2.0 standards adopted by the Access Board for Section 508, but they have emerged as recommended practices and may still be advisable for Federal websites that wish to be as accessible as possible. The Access Board provides technical assistance to Federal departments or agencies on accessibility guidelines and standards, including the standards for Section 508.⁸¹

Alternative Text: Assistive technology, particularly screen readers, cannot interpret images unless accompanied with descriptive text. Images need to have text alternatives (also referred to as “alt-text”) that provide descriptive identification or a text equivalent for information contained in the image, or the image’s function.⁸² This alt-text can then be read by assistive technology. **Figure 1** provides an example of alternative text.



Figure 1: The alternative text that screen reader devices will read aloud for the picture above is “American flag silhouetted against the sky.”

Source: <https://www.dhs.gov/>.

⁸¹ “Technical Assistance,” Access Board, last accessed on December 1, 2022, <https://www.access-board.gov/ta/>.

⁸² “Images Tutorial,” W3C, last updated February 8, 2022, <https://www.w3.org/WAI/tutorials/images/>.



Hover Effects: Visual effects such as background glows, drop shadows, color changes, or underlining are visible when the mouse hovers over links.⁸³ These hover effects may be the only way to let the user know that text is an active link to more information.⁸⁴ To be accessible, the information provided by hover effects must not only be available to people using a mouse, but also other kinds of devices that can focus on the link, such as a keyboard.⁸⁵ Otherwise, a screen reader user, or other person relying on only a keyboard, may have trouble navigating a website. **Figure 2** provides an example of hover effects.



Figure 2: The images above demonstrate hover effects. The image on the left shows how this link appears when the cursor is not focused on it. The image on the right shows how the link appears when the cursor is hovering over it. Source: <https://www.casey.senate.gov/contact>.

Autofill Boxes: “Autosuggests” offer the user suggestions when they are entering text into a website, typically in the form of a dropdown list.⁸⁶ Screen readers must be able to notify a user when a dropdown list is available.⁸⁷ Individuals using assistive technology must also be able to select from the list using a keyboard. **Figure 3** provides an example of an autofill box.⁸⁸

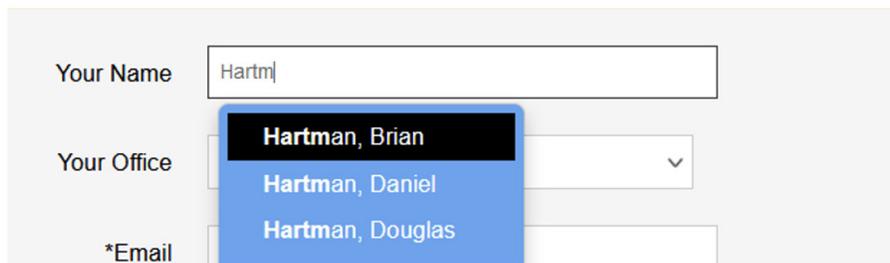


Figure 3: The image above is an example of an autofill box. Source: Congressional Research Service.

⁸³ “Links and Hypertext,” WebAIM, last updated on October 24, 2019, https://webaim.org/techniques/hypertext/link_text.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ “Autosuggest Widget (or: autocomplete, lookahead, typehead),” Accessibility Developer Guide, last updated on April 30, 2020, <https://www.accessibility-developer-guide.com/examples/widgets/autosuggest/>.

⁸⁷ “Technique: Autocomplete Input Controls,” Harvard University, last accessed on December 1, 2022, <https://accessibility.huit.harvard.edu/technique-aria-autocomplete>.

⁸⁸ *Id.*



Accessible Forms: Online forms must have labels that enable screen readers to convey their function to users. An example is text that reads “credit card number” where the number should be entered.⁸⁹ Online forms must also have clear instructions and error indicators that alert a user when information in a field is missing or incorrect. **Figure 4** demonstrates a few of the ways an online form must be accessible.⁹⁰

The image shows a web form with the following fields and labels:

- FIRST NAME*** (circled in red): Input field containing "John".
- LAST NAME***: Input field containing "Doe".
- EMAIL***: Input field containing "JDoe@XXXX.com".
- VERIFY EMAIL***: Input field containing "JDoe@XXXX.com".
- PHONE NUMBER**: Input field containing "717-XXX-XXXX".
- STREET ADDRESS***: Input field containing "XXX Main Street".
- STREET ADDRESS (2)**: Input field containing "Apt XXX".
- CITY***: Input field containing "Spring Grove".
- STATE***: Dropdown menu showing "PA".
- ZIP**: Input field with a "Required" label. An error message "This field is required. Please enter a valid zip code." is displayed (circled in red).
- MESSAGE TOPIC***: Input field containing "Sample Message".
- MESSAGE***: Input field containing "123456".

A "SUBMIT" button is located at the bottom right of the form.

Figure 4: The image above is an online form. In order to be accessible, screen readers must be able to read the labels for each field, such as the “FIRST NAME” label circled below. Screen readers must also be able to read error messages, such as the ZIP code error message circled below.

Source: <https://www.aging.senate.gov/contact/contact-us>.

⁸⁹ “Guidance on Web Accessibility and the ADA,” Department of Justice, March 18, 2022, <https://beta.ada.gov/resources/web-guidance/>.

⁹⁰ *Id.*



Accessible Use of Color: There must be sufficient contrast between text and its background; otherwise, people with limited vision or people unable to distinguish among colors might not be able to read the webpage.⁹¹ Only using color to convey information, such as using red text to call attention to a required field, is an accessibility barrier.⁹² People who are color blind or have other vision impairments may not notice color differences.⁹³ Screen readers do not typically convey the color of text while reading, so that information would also not be available to someone who is blind.⁹⁴ One way to overcome this barrier to accessibility is to combine the use of color with a text marker such as an asterisk to identify a required field. **Figures 5** and **6** demonstrate the proper and improper use of color.

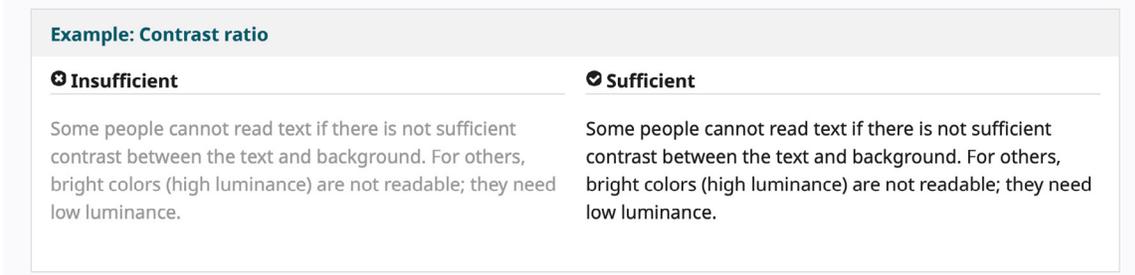


Figure 5: The example on the left side of the image above demonstrates insufficient color contrast. The example on the right demonstrates sufficient color contrast. **Source:** <https://www.w3.org/WAI/tips/designing/#provide-sufficient-contrast-between-foreground-and-background>.

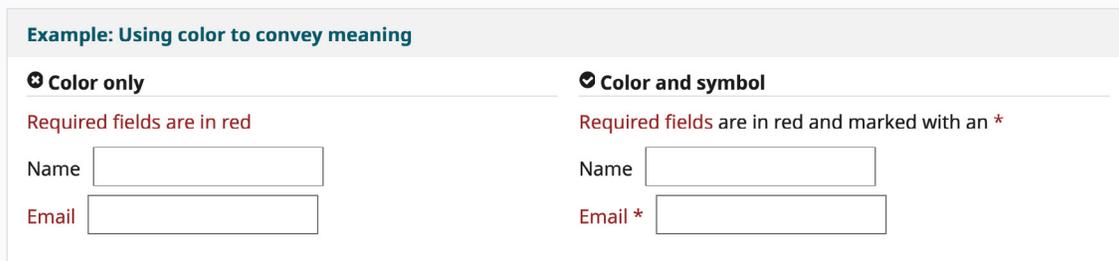


Figure 6: The example on the left side of the image above demonstrates improperly using only color to convey information by showing required fields in red. Someone using a screen reader would be unable to tell which fields are required.⁹⁵ The example on the right uses color and an asterisk to identify a required field. A screen reader can interpret an asterisk. **Source:** <https://www.w3.org/WAI/tips/designing/#provide-sufficient-contrast-between-foreground-and-background>.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ “Designing for Web Accessibility,” W3C, last updated January 9, 2019, <https://www.w3.org/WAI/tips/designing/#provide-sufficient-contrast-between-foreground-and-background>.



Plain Language: Plain language is writing in such a way that content is understood the first time someone reads it.⁹⁶ It benefits people with cognitive disabilities and low reading literacy.⁹⁷ Common plain language techniques include using short sentences and paragraphs as well as common, everyday words.⁹⁸ **Figure 7** demonstrates the difference between agency instructions that are written in plain language, and those that are not.⁹⁹

Medicaid Eligibility

This example was created for training and is not official agency text.

<p>✘ Before</p> <hr style="border: 1px solid red;"/> <p>Medicaid: Apply if you are aged (65 years old or older), blind, or disabled and have low income and few resources. Apply if you are terminally ill and want to receive hospice services. Apply if you are aged, blind, or disabled; live in a nursing home; and have low income and limited resources. Apply if you are aged, blind, or disabled and need nursing home care, but can stay at home with special community care services. Apply if you are eligible for Medicare and have low income and limited resources.</p>	<p>✔ After</p> <hr style="border: 1px solid green;"/> <p>You may apply for Medicaid if you are:</p> <ul style="list-style-type: none"> ○ Terminally ill and want hospice services ○ Eligible for Medicare and have low income and limited resources ○ 65 years old or older, blind, or disabled and have low income and few resources and: <ul style="list-style-type: none"> ▪ Live in a nursing home ▪ Need a nursing home care but can stay at home with special community care services
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Figure 7: The image above demonstrates plain language. The box on the left is an example of what agency instructions can look like when they do not use plain language. The box on the right is the same set of instructions, using plain language. **Source:** <https://www.plainlanguage.gov/examples/before-and-after/medicaid-eligibility/>.

⁹⁶ “What is Plain Language?” Plainlanguage.gov, last accessed December 1, 2022 (hereinafter “Plain Language Explanation”), <https://www.plainlanguage.gov/about/definitions/>.

⁹⁷ “Use Plain Language,” Harvard University, last accessed December 1, 2022, <https://accessibility.huit.harvard.edu/use-plain-language>.

⁹⁸ *Supra*, note 96, Plain Language Explanation.

⁹⁹ Separate from Section 508, the Plain Writing Act of 2010 (P.L. 111-274) requires that Federal agencies use clear government communication that the public can understand and use. See “Law and Requirements,” Plainlanguage.gov, last accessed December 1, 2022, <https://www.plainlanguage.gov/law/>; The Plain Writing Act of 2010, P.L. 111-274, 124 Stat. 2861, <https://www.govinfo.gov/content/pkg/PLAW-111publ274/pdf/PLAW-111publ274.pdf>.



Captions and Sign Language: Online videos must have synchronized captions of speech and other important audio content for people who cannot hear the audio.¹⁰⁰ Transcripts can help users unable to listen to a video’s audio or see the video.¹⁰¹ American Sign Language (ASL) interpretation is more effective in making videos accessible for users who primarily communicate through ASL.¹⁰² **Figure 8** is a screenshot of a video with captions and ASL interpretation.



Figure 8: The image above is an example of an online video with captions and ASL interpretation. **Source:** <https://www.aging.senate.gov/hearings/click-here-accessible-Federal-technology-for-people-with-disabilities-older-americans-and-veterans>.

Audio Descriptions: Audio descriptions are an additional audio narration track contained in online videos that describe and provide context for what is happening in the video.¹⁰³ These help a blind or low vision user understand what is going on in the video. However, audio description may not always be necessary.¹⁰⁴ For example, an audio track describing what is happening on screen may not be necessary if the only content of a video is a person talking, with no other activity.¹⁰⁵ The link in **Figure 9** goes to a website that demonstrates an audio description.



Figure 9: Visit the following website or scan the QR code on the left to listen to an example of an audio description: <https://webaim.org/techniques/captions/media/audiodesc.mp3>.

¹⁰⁰ “Captions, Transcripts, and Audio Descriptions,” WebAIM, last updated July 1, 2020, <https://webaim.org/techniques/captions/>.

¹⁰¹ *Id.*

¹⁰² “G54: Including a Sign Language Interpreter in the Video Stream,” W3C, last accessed December 1, 2022, <https://www.w3.org/TR/WCAG20-TECHS/G54.html>.

¹⁰³ “508 Accessible Videos – How to Make Audio Descriptions,” Digital.gov, last updated on November 3, 2020. <https://digital.gov/2014/06/30/508-accessible-videos-how-to-make-audio-descriptions/>.

¹⁰⁴ “Description of Visual Information,” W3C, last updated on August 24, 2022, <https://www.w3.org/WAI/media/av/description/#checklist>.

¹⁰⁵ *Id.*



PDF Documents: Rather than display content using HTML,¹⁰⁶ many websites include content only as PDF documents that must be downloaded and viewed in an application like Acrobat Reader. PDF documents that have been uploaded to websites are web content covered by Section 508 and must be accessible to people with disabilities.¹⁰⁷ PDF “tags” are hidden to most users but provide a structured representation of the document’s content to screen readers, including alt-text for graphics, table headings, form labels, and reading order.¹⁰⁸ An untagged PDF is unreadable for a screen reader user.¹⁰⁹ Many PDFs are scans of hard copy documents and are typically images of text from which assistive technology cannot read or extract words.¹¹⁰ They are not accessible unless the agency assigns someone to convert them to an accessible format. **Figure 10** shows an example of a PDF and its tags.

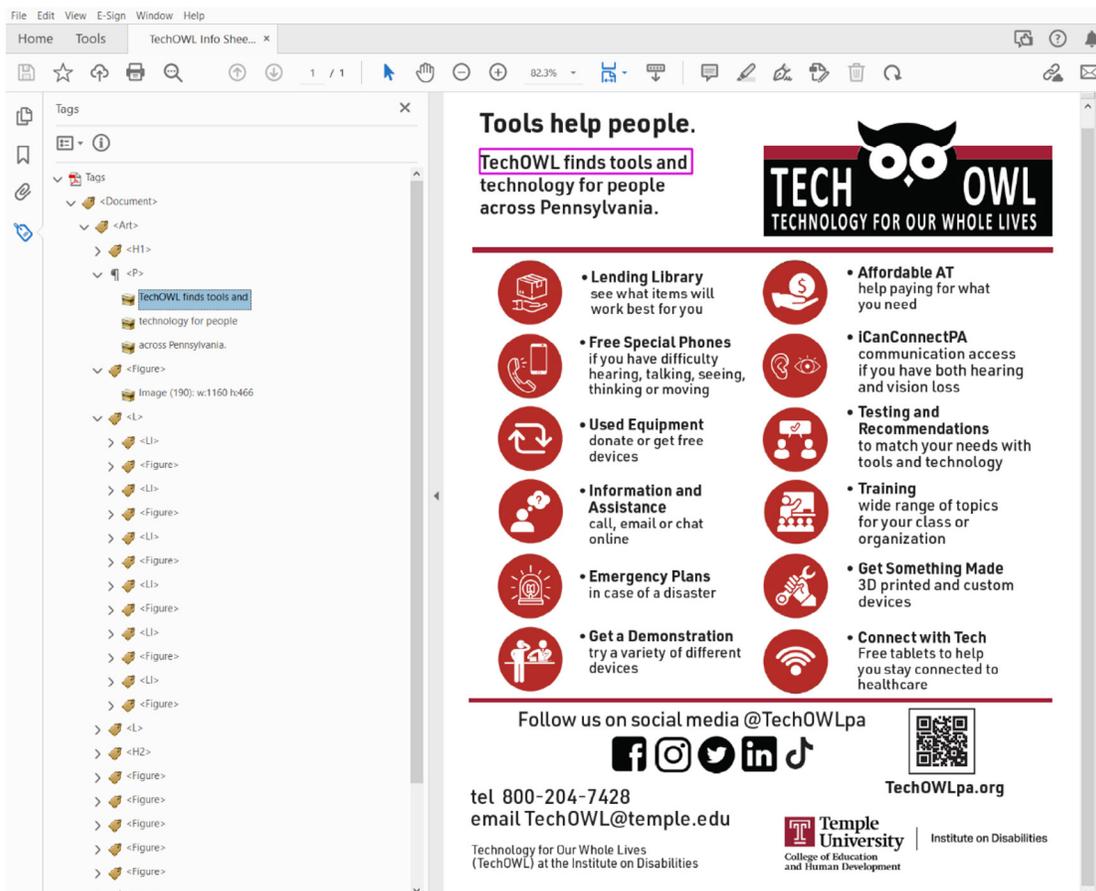


Figure 10: The image above shows the tags in an informational flyer. These tags are hidden for most users but allow a screen reader to interpret the PDF. **Source:** TechOWL at Temple University.

¹⁰⁶ HTML stands for “Hyper Text Markup Language.” It is a commonly used programming language for creating webpages. See “HTML & CSS,” W3C, last accessed on December 1, 2022, <https://www.w3.org/standards/webdesign/htmlcss>.

¹⁰⁷ *Supra*, note 78, Revised 508 Standards, at E205.2.

¹⁰⁸ “PDF Accessibility,” WebAIM. last updated April 26, 2022, https://webaim.org/techniques/acrobat/?gclid=CjwKCAjw7p6aBhBiEiwA83fGumfYPHuBg8yUisHVTCT3jdraZ2jPWzrdKWwNi6u6EV1es0TiHMUR6RoCGJsQAvD_BwE

¹⁰⁹ *Id.*

¹¹⁰ “PDF Techniques for WCAG 2.0,” W3C, last accessed on December 1, 2022, <https://www.w3.org/TR/WCAG20-TECHS/pdf>.



IV. FINDINGS

Over the last year, investigative staff have sought to better understand the accessibility shortfalls of Federal technology, which appear to remain widespread across the government nearly a quarter-century after Congress last amended Section 508. Investigative staff also examined the oversight mechanisms that are meant to ensure compliance with accessibility requirements and the ability for people affected by accessibility shortfalls to obtain remedies. The findings resulting from this oversight make clear that a lack of attention from Congress has allowed accessibility issues to fester across the Federal government. These shortfalls affect the daily lives of people with disabilities who want to live independently, including taxpayers seeking services, current Federal workers, and prospective Federal workers.

As referenced above and discussed in more detail below, Section 508 requires the DOJ to monitor and report on Section 508 compliance across the government, an obligation that has gone unmet since 2012. In the absence of such reports, investigative staff relied on information VA was required to submit to Congress by the VA Website Accessibility Act. Investigative staff also relied on information provided by departments in response to congressional letters, witness testimony provided to the Committee, media reports, and legal settlements reached with Federal agencies.

Taken together, this oversight has found that:

1. The Department of Veterans Affairs has failed to consistently make its technology accessible for people with disabilities, including VA employees and veterans using VA services;
2. Federal technology presents accessibility barriers for people with disabilities at departments and agencies across the government;
3. Federal departments and agencies can take years to address Section 508 violations; and
4. Insufficient oversight and enforcement of Section 508 standards have led to a lack of compliance with the law and Federal technology that is inaccessible for people with disabilities.



Finding 1: The Department of Veterans Affairs has failed to consistently make its technology accessible for people with disabilities, including VA employees and veterans using VA services.

Following years of concern regarding the accessibility of VA websites, Congress passed bipartisan legislation in 2020 requiring VA to report on the accessibility of its websites and kiosks.¹¹¹ Those reports and other evidence suggest that VA has not consistently made its technology accessible for people with disabilities, as required by Section 508. Because much of this reporting comes from automated scans of VA websites, it is possible these reviews may not reflect the full scope of accessibility problems on VA webpages.

VA's 2021 report to Congress indicated that roughly 90 percent of its websites are not fully accessible for people with disabilities.¹¹² VA stated that it is prioritizing its remediation efforts by the most frequently used websites.¹¹³ However, internal audits that VA provided in July 2022 show that dozens of important and high-profile sites, including the Department's home page, the GI Bill home page, and its careers site for job seekers, do not fully comply with Section 508 accessibility requirements.¹¹⁴

In addition to the audits, VA provided raw data, referred to as "defect data," identifying VA website non-compliance violations for its internet (public-facing) websites from May 2022 through June 2022 and its intranet (internal facing) websites for October 2021. VA confirmed for investigative staff that each issue listed in the spreadsheets is a separate Section 508 violation.¹¹⁵ In total, the defect data detail hundreds of thousands of individual Section 508 violations.¹¹⁶ The sheer volume of accessibility errors identified over a short period demonstrates the challenges facing VA. Even the website for VA's Section 508 Office was not free of errors, as VA found a color contrast issue on that office's search page.¹¹⁷

Similar accessibility concerns were the subject of a House subcommittee hearing in 2014, during which then-Chairman Mike Coffman (R-CO) noted:

Two separate memoranda, dated July 26, 2012, issued by-then Assistant Secretary for Information and Technology, Roger Baker... reference how recent audits conducted by VA show that most of the content and information on VA web sites was not Section 508 compliant.... We will hear today in VA's testimony that they are making great strides in bringing VA systems into compliance with Section 508. However, we will also hear from a blinded veteran, who must actually navigate these pages himself. He may be inclined to disagree.¹¹⁸

¹¹¹ *Supra*, note 1.

¹¹² Department of Veterans Affairs, *Report on the Accessibility of Websites of the Department of Veterans Affairs to Individuals with Disabilities*, at 2, (hereinafter "VA Web Report"), https://www.casey.senate.gov/imo/media/doc/report_on_the_accessibility_of_websites_of_the_department_of_veterans_affairs1.pdf.

¹¹³ Letter from VA Secretary McDonough to Senator Casey, at VA-001 (hereinafter "VA Response"), https://www.aging.senate.gov/imo/media/doc/letter_from_secretary_mcdonough_to_senator_casey_re_section_508_compliance.pdf.

¹¹⁴ *Id.* at VA-026–VA-040. See "List of internet website conformance levels."

¹¹⁵ Email from Darrell Donnelly to Doug Hartman, November 8, 2022, see attachment at 1 (hereinafter, "Donnelly VA Web Scan E-mail") [on file with the Committee].

¹¹⁶ VA Website Scan Spreadsheet: Web Ops Report – May June 2022 – Internet – Compiled – MASTER (3) [on file with the Committee]; VA Website Scan Spreadsheet: Web Ops Report – October 2021 – Intranet – Master [on file with the Committee]. The Internet Web Ops Report states that there were 140,532 total issues across Veterans Health Administration internet websites alone.

¹¹⁷ VA Website Scan Spreadsheet: VACO – V.A. Section 508 [on file with the Committee]. Note that it is not uncommon for websites to develop a small number of accessibility errors as the sites are changed or updated. Agencies need to continually monitor their sites through automated scanning and trained testers to identify and remediate problems.

¹¹⁸ *Assessing Inadequacies in VA Data Usage for Services Provided to Visually-Impaired Veterans, Before the Subcommittee on Oversight*



Two years later, an audit of the MyCareer@VA website conducted by VA's Office of Inspector General (VA OIG) found that Department officials “did not address nearly 200 known Section 508 compliance issues and did not seek certification of compliance” before launching an updated MyCareer@VA website in 2014.¹¹⁹ The OIG cited several reasons for this outcome, including inadequate policy guidance from VA leadership, inadequate processes to ensure 508 compliance, and inadequate oversight of contractors.¹²⁰

VA Audits and Data Detailed Widespread Web Accessibility Problems

The internal audits show that important parts of VA's internet and intranet websites do not conform with legal accessibility standards. The internal audits suggest that VA has substantial work toward making their websites accessible. It is possible that even these numbers reflect a “best case scenario,” as automated scans must be combined with trained, human testing to capture the full scope of accessibility problems.

A few examples from VA's audit include:

- **Veterans Benefits Administration (VBA) Regional Offices:** All of the 58 VBA regional office websites received Section 508 conformance ratings of 52 percent or less. These sites included regional offices for Philadelphia (52 percent conformance), Los Angeles (51 percent), and Boise, Idaho (51 percent). Those pages include information on veterans' programs and contact information for the regional offices.¹²¹ VA's audit did not provide information on specific Section 508 violations for any of these websites. However, investigative staff's review of raw VA compliance data identified numerous Section 508 violations, including some related to color and parsing, on the Philadelphia, Los Angeles, and Boise pages.¹²² (Improper parsing means that computer code does not follow the latest accessibility standards and cannot be understood by assistive technology such as screen readers.)¹²³
- **Internal Phone Book:** The VA phone book intranet site is a VA employee website rated at 0 percent conformance.¹²⁴ Review of additional VA data found Section 508 violations related to proper labeling in an online form.¹²⁵ Forms, text boxes, buttons, and menus that are not clearly labeled make navigating websites difficult for employees with disabilities, such as those using screen readers or people with dyslexia,¹²⁶ placing them at a disadvantage to complete their job responsibilities.

and Investigation, House Committee on Veterans' Affairs, 113th Congress, at 2, 2014, statement of Chairman Mike Coffman (hereinafter “2014 HVAC Oversight Hearing”), <https://www.govinfo.gov/content/pkg/CHRG-113hhrg88981/pdf/CHRG-113hhrg88981.pdf>.

¹¹⁹ *Supra*, note 50, VA OIG Report, at Highlights.

¹²⁰ *Id.*, at 4.

¹²¹ *Supra*, note 113, VA Response, at VA-004, VA-036–VA038. Ratings for the Philadelphia, Los Angeles, and Boise VBA regional offices are listed on VA-037.

¹²² This reflects VA scan data from May–June 2022. See VA Website Scan Spreadsheet: VBA – Regional Office Philadelphia [on file with the Committee]; VA Website Scan Spreadsheet: VBA – Regional Office Los Angeles [on file with the Committee]; VA Website Scan Spreadsheet: VBA – Regional Office Boise [on file with the Committee].

¹²³ “Parsing – Success Criterion 4.1.1 (Level A),” Pearson, last accessed on December 1, 2022, <https://www.pearson.com/accessibility-guidelines/robust-principle/parsing.html>.

¹²⁴ *Supra*, note 113, VA response, at VA-048.

¹²⁵ This reflects VA scan data from October 2021. See VA Website Scan Spreadsheet: VACO – VA Phone Book [on file with the Committee].

¹²⁶ “Labels or Instructions – Success Criterion 3.3.2 (Level A),” Pearson, last accessed on December 1, 2022, <https://www.pearson.com/accessibility-guidelines/understandable-principle/labels-or-instructions.html>.



- **Careers Website:** The VA Careers website is for people seeking jobs at VA, and it was rated at 16 percent conformance.¹²⁷ A review of additional VA data found over 600 specific Section 508 violations for the VA Careers website, including violations related to parsing, color, and text alternatives.¹²⁸ An inaccessible career website would make it more difficult for workers with disabilities to get hired by VA.
- **Office of Employment Discrimination and Complaint Adjudication (OEDCA):** The OEDCA website was rated at 22 percent conformance.¹²⁹ Review of additional VA data found Section 508 violations related to parsing, labeling in online forms, and PDFs.¹³⁰ The OEDCA’s mission is to “objectively review the merits of employment discrimination claims filed by present and former VA employees and non-agency applicants for employment.”¹³¹ Access to this website could be important for an employee with a disability if they have experienced disability discrimination within VA.

Inaccessible websites like the ones listed above have a real-world impact. For example, the Blinded Veterans Association (BVA) provided testimony to the Committee about the experience of a blinded veteran who is unable to receive an authorized travel reimbursement because the related VA website is inaccessible.¹³² Another individual, Ron Biglin, a blind veteran from Pennsylvania, described his own experiences with VA’s My HealthVet website, an important site for accessing VA health services:

I have a computer program I received from the VA called JAWS which reads to me what is on the screen ... I got my user name and password and tried getting on the website but had a lot of problems, as with JAWS, it jumps around a lot.... So over the past few years it was easier for me to call and get my items taken care of. In the last month I received an email from the Healthy Vet (sic) program and was told they were taking me off the website as I have not used it lately.¹³³

As VA provides more self-service options online, web accessibility becomes more important for veterans with disabilities.¹³⁴ According to Mr. Biglin, “if [VA websites] were made easier to access it would save a lot of time waiting on a phone call to get your items, it could be as easy as a click away.”¹³⁵

¹²⁷ *Supra*, note 113, VA response, at VA-040.

¹²⁸ This reflects VA scan data from May–June 2022. *See* VA Website Scan Spreadsheet: VHA – VA Careers [on file with the Committee].

¹²⁹ *Supra*, note 113, VA response, at VA-040.

¹³⁰ This reflects VA scan data from May–June 2022. *See* VA Website Scan Spreadsheet: VACO – The Office of Employment Discrimination and Complaint Adjudication [on file with the Committee].

¹³¹ “Office of Employment Discrimination Complaint Adjudication,” Department of Veterans Affairs, last updated October 12, 2021, <https://www.oedca.va.gov/>.

¹³² *Supra*, note 44, Aging Accessible Technology Hearing, at 83, statement of James Vale.

¹³³ *Id.*, at 112, statement of Ron Biglin.

¹³⁴ *Id.*, at 85, statement of James Vale.

¹³⁵ *Id.*, at 112, statement of Ron Biglin.



While VA audits provide a bird's-eye view of Section 508 violations, VA provided data for hundreds of VA internet websites that pinpoint the specific types and volume of violations for different departmental webpages and subpages. The following examples demonstrate the kind of accessibility issues present with VA webpages at the time accessibility scans were conducted in May and June, 2022. As noted previously, scans alone may not identify all accessibility issues:

- **Pharmacy Benefits Management Services:** The Pharmacy Benefits Management Services (PBMS) is part of the Veterans Health Administration (VHA). Its website and associated webpages contained more than 6,400 Section 508 violations.¹³⁶ VA's audit shows PBMS has 62 percent compliance with Section 508 requirements.¹³⁷ Specific errors include:
 - Missing text alternatives for embedded videos on the Opioid Overdose Education and Naloxone Distribution page.¹³⁸ A text alternative helps a screen reader identify a non-text component on a website, such as an image or a dropdown list.¹³⁹ The missing text alternatives on the Opioid Overdose Education and Naloxone Distribution page present a potential barrier to people using screen readers who are seeking to identify the embedded videos as videos;
 - Color contrast issues for the VA Center for Medication Safety page. This page includes safety alerts for drugs and medical devices;¹⁴⁰ and
 - More than 6,300 accessibility issues related to PDFs, including missing structural tags and no alt-text for images.¹⁴¹
- **VBA Education and Training Pages:** The VBA webpages on education and training, which focus mostly on the GI Bill, contained more than 1,200 Section 508 violations.¹⁴² VA's audit shows this page has 50 percent compliance with Section 508 requirements.¹⁴³ Specific violations include:
 - Color contrast and parsing problems with Rate of Benefit Tables for GI Bill educational assistance programs;¹⁴⁴
 - Structure problems with a list of webinars that provide education and training on the GI Bill.¹⁴⁵ Structure problems mean the website is structured in a way that would make it difficult to use with assistive technology;¹⁴⁶ and
 - Nearly 800 accessibility issues related to PDFs, including missing table headers and missing alt-text for images.¹⁴⁷

¹³⁶ VA Website Scan Spreadsheet: VHA – Pharmacy Benefits Management Services (hereinafter “VA PBMS Spreadsheet”) [on file with the Committee].

¹³⁷ *Supra*, note 113, VA Response, at VA-036.

¹³⁸ *Supra*, note 136, VA PBMS Spreadsheet.

¹³⁹ *Supra*, note 115, Donnelly VA Web Scan E-mail, *see* attachment, at 2.

¹⁴⁰ *Supra*, note 136, VA PBMS Spreadsheet.

¹⁴¹ *Id.*

¹⁴² VA Website Scan Spreadsheet: VBA – VBA Education and Training, (hereinafter “VBA Education Spreadsheet”) [on file with the Committee].

¹⁴³ *Supra*, note 113, VA Response, at VA-038.

¹⁴⁴ *Supra*, note 142, VBA Education Spreadsheet.

¹⁴⁵ *Id.*

¹⁴⁶ *Supra*, note 115, Donnelly VA Web Scan E-mail, *See* attachment, at 2.

¹⁴⁷ *Supra*, note 142, VBA Education Spreadsheet.



Health Programs

Protect Your Health

A-Z Health Topics

Veterans Crisis Line
1-800-273-8255 PRESS 1

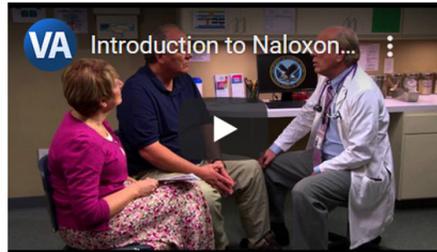
My healthvet
Online
My Health, My Care: 24/7 Access to VA

- To learn more about VA substance use disorder treatment, click [here](#).
- To learn more about VA pain management programs, click [here](#).
- To learn more about VA Whole Health, click [here](#).

Opioid Overdose Education and Naloxone Distribution Videos:



This video demonstrates how to introduce the topic of naloxone to people with opioid use disorders.



This video demonstrates how to introduce the topic of naloxone to people taking prescribed opioids.



This video demonstrates how to train people on how to use naloxone nasal spray.



This video demonstrates how to train people on how to use VA Intramuscular Naloxone kits.



Brian recounts how Narcan (Naloxone) saved his life and advocates for the wider distribution of this safe treatment to reverse fatal heroin and other opioid overdoses.



Medication-assisted treatment (MAT) is the first-line treatment for opioid addiction, or opioid use disorder. MAT is a combination of FDA-approved medications and behavioral therapy, which allows people struggling to reach and remain in recovery.

Learn the risks at: PeoplesOpioidProject.org

Figure 11: VA’s scans found missing text alternatives for embedded videos posted to the PBMS webpage on opioid overdose education and naloxone distribution. This website includes information on how to prevent opioid overdoses, discuss opioid misuse, and obtain and use VA naloxone. **Source:** http://web.archive.org/web/20220518165359/https://www.pbm.va.gov/PBM/AcademicDetailingService/Opioid_Overdose_Education_and_Naloxone_Distribution.asp (Internet Archive, May 18, 2022).



- **VA Office of Inspector General (VA OIG):** The website and subpages for VA OIG contained more than 12,000 Section 508 violations, raising concerns about the accessibility of audits and other findings put forth by VA’s independent watchdog, and the ability of people with disabilities to report wrongdoing.¹⁴⁸ VA’s audit shows the OIG page has 85 percent compliance with Section 508 requirements.¹⁴⁹ Specific violations include:
 - More than 11,000 violations related to PDFs, including missing headers for tables and missing text equivalents for images;¹⁵⁰
 - Label issues with VA OIG’s Hotline Complaint Form.¹⁵¹ This page enables the public, contractors, and VA employees to file complaints about the Department. If the form is not compatible with assistive technology, people with disabilities may not be able to report VA waste, fraud, and abuse; and
 - Color contrast issues with VA OIG’s list of oversight reports, as well as label issues with the form on the same page.¹⁵²

As the above data make clear, a significant portion of the violations identified in VA’s defect data relate to PDFs. For example, 98 percent of violations for the Pharmacy Benefits Management Services website were related to PDFs.¹⁵³ More than 60 percent of violations on the VBA education and training website were related to PDFs, while more than 90 percent of violations on VA OIG’s website were for PDFs.¹⁵⁴ As explained in more detail in the preceding section, PDFs that have been uploaded to a website are web content and must meet web accessibility standards. Without access to documents published on Federal agency websites, people with disabilities may be denied information they need to access services and improve their lives.

Although PDFs must be accessible, VA has reported several challenges related to PDF remediation. One is that while HTML website errors can be fixed while a website is being developed or maintained, PDFs are not typically authored by the same person who manages a website.¹⁵⁵ Frequently, the original author of a PDF is no longer available at all.¹⁵⁶ The skill set for remediating PDFs is also different from the skill set used for remediating HTML, and different tools are used for remediation.¹⁵⁷

¹⁴⁸ VA Website Scan Spreadsheet: VACO – Office of Inspector General (hereinafter “VACO OIG Spreadsheet”) [on file with the Committee].

¹⁴⁹ *Supra*, note 113, VA Response, at VA-033.

¹⁵⁰ *Supra*, note 148, VACO OIG Spreadsheet.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Supra*, note 136, VA PBMS Spreadsheet.

¹⁵⁴ *Supra*, note 142, VBA Education Spreadsheet; *supra*, note 148, VACO OIG Spreadsheet.

¹⁵⁵ *Supra*, note 115, Donnelly VA Web Scan E-mail, *see* attachment, at 3.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*



Department of Veterans Affairs, Office of Inspector General

Michael J. Missal, Inspector General

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OIG Hotline Identified Complaint Form

I am providing the OIG with my name, and I agree that **the VA OIG can disclose** my name and other information I provide, if necessary, to ensure my issues are addressed.

This level of confidentiality is appropriate for complainants seeking personal relief, such as veterans, dependents, and contractors, or for complainants comfortable being identified if needed regarding concerns involving VA programs and operations.

Return to the [Disclosure Options When Submitting a Complaint](#) page for more options.

VA employees, VA contractors, and any other HIPAA-covered individuals or entities (e.g., private healthcare providers and insurance providers) should not submit personally identifiable information, protected health information (PHI), or other VA-sensitive information (including patient names) via this web submission form. If submission of VA sensitive information or other PHI is required, please contact the VA OIG Hotline at 1-800-488-8244 to determine how to submit it. Additional information is available on the [Hotline FAQ page](#).

Your Contact Information

* Indicates Required Fields

First Name*

Last Name*

Title



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Figure 12: VA found label problems with VA OIG’s “OIG Hotline Identified Complaint Form.” Label issues could make it difficult for a user relying on a screen reader to report waste, fraud, and abuse at VA. **Source:** <https://web.archive.org/web/20220621004028/https://www.va.gov/oig/apps/info/hotlineGeneralContactForm.aspx?cc=s> (Internet Archive, June 21, 2022).



As noted, VA provided accessibility data for intranet sites for one month, October 2021. Among the affected sites:

- **VHA:** The intranet sites for the Hawaii-Pacific Islands Health Care System (Hawaii VA) contained more than 155,000 Section 508 violations.¹⁵⁸ VA’s audit shows this page has 1 percent compliance with Section 508 requirements.¹⁵⁹
- **VA Central Office (VACO):** The intranet sites for the VACO Office of Information and Technology (OIT) reported more than 28,000 Section 508 violations.¹⁶⁰ VA’s audit shows this page has 39 percent compliance with Section 508 requirements.¹⁶¹ These violations are particularly troubling, given that OIT is responsible for overseeing VA technology.
- **National Cemetery Administration (NCA):** NCA intranet sites contained nearly 7,000 Section 508 violations.¹⁶² VA’s audit shows this page has 51 percent compliance with Section 508 requirements.¹⁶³

Such Section 508 violations could hinder VA employees with disabilities as they seek to access information and serve veterans. For example, intranet sites from the Hawaii VA with violations included sites related to trainings and luncheons; a webpage related to an employee town hall; a page on the storage and removal of masks; and a notice that non-essential employees had been asked to return home and patient appointments were being cancelled.¹⁶⁴

Also notable is a VBA intranet site with 550 Section 508 violations—the Veterans Benefits Management System.¹⁶⁵ Specific pages or documents with violations included fact sheets, tool kits, and a claims webpage.¹⁶⁶ Inaccessible websites at the VBA could keep employees with disabilities from processing veteran claims in a timely fashion, harming veterans and hindering the advancement of those employees. One former VBA employee impacted by inaccessible technology was Carlos Montas, who is blind:

...[Mr. Montas’] manager gave him digital audio workstation software and a Braille display, which allowed him to read text on the screen with his fingertips. But neither technology was compatible with much of the software he needed to do his job.... He said the VA instituted performance benchmarks and eventually fired him for not keeping up. He filed a discrimination complaint with the Equal Employment Opportunity Commission and won his job back along with back pay. He quit a few months later for a job at the EEOC.¹⁶⁷

¹⁵⁸ VA Website Scan Spreadsheet: Web Ops Report – October 2021 – Intranet – Master, at VHA tab [on file with the Committee]. VA provided a second set of data that identified 64,999 violations on the Hawaii VA’s websites. *See* VA Website Scan Spreadsheet: VHA – Hawaii – Pacific Islands Health Care System [on file with the Committee]. This was the only instance of a substantial disparity between VA’s master list for intranet websites and the spreadsheets for individual websites. VA acknowledged the discrepancy and suggested that it may be due to human error. *See* VA PowerPoint Presentation, December 1, 2022, at 10 [on file with the Committee].

¹⁵⁹ *Supra*, note 113, VA Response, at VA-048.

¹⁶⁰ VA Website Scan Spreadsheet: Web Ops Report – October 2021 – Intranet – Master (hereinafter “VA Intranet Master Spreadsheet”), at VACO tab. Note that the Office of Information and Technology oversees the state of VA’s websites.

¹⁶¹ *Supra*, note 113, VA Response, at VA-046.

¹⁶² *Supra*, note 160, VA Intranet Master Spreadsheet, at NCA tab.

¹⁶³ *Supra*, note 113, VA Response, at VA-045.

¹⁶⁴ VA Website Scan Spreadsheet: VHA – Hawaii – Pacific Islands Health Care System [on file with the Committee].

¹⁶⁵ *Supra*, note 160, VA Intranet Master, at VBA tab.

¹⁶⁶ VA Website Scan Spreadsheet: VBA – Veterans Benefits Management System [on file with the Committee].

¹⁶⁷ Ruth Reader, “Congress Ordered Agencies to Use Tech That Works for People with Disabilities 24 Years Ago. Many Still Haven’t,” *Politico*, August 21, 2022, <https://www.politico.com/news/2022/08/21/congress-people-with-disabilities-00052955>. Investigative staff confirmed these details with Mr. Montas during a phone call in November 2022.



VA Kiosks Present Accessibility Barriers for Veterans

Other technology at VA suffers from similar accessibility problems, including the agency kiosks. VA kiosks can be used for a variety of functions, including enabling veterans to check in at VA medical centers, review and update their personal information, apply for travel reimbursement, and request medical records.¹⁶⁸ In response to concerns about the accessibility of kiosks, the VA Website Accessibility Act required the department to report on plans to bring kiosks into compliance with Section 508.

The BVA has received complaints from their members regarding the accessibility of kiosks.¹⁶⁹ In one case, a veteran had to seek help from a stranger to check in for his VHA appointment.¹⁷⁰ In another example, a New Jersey veteran experienced difficulty using VA kiosks for travel reimbursement.¹⁷¹ Since the pandemic, this veteran's local VA office has prohibited use of the kiosks and has instructed veterans to file for reimbursement online.¹⁷² He noted that "veterans with visual impairments do not submit a voucher due to the complexities with the process."¹⁷³ He pays roughly \$50 per trip for each visit to his local VA.¹⁷⁴

VA has indicated that it is in the process of replacing its check-in kiosks with smartphone apps that the agency said will exceed the current accessibility standards under Section 508.¹⁷⁵ However, the extent to which this transition has occurred is unclear. In an October 2022 letter to VA, Senator Casey raised concern that "rather than ensuring existing check-in kiosks at VA health centers are accessible to people with disabilities, veterans requiring accessibility services must 'complete appointment check-in activities by seeing a staff member,' " while "VA staff training 'to assist individuals with disabilities is optional rather than mandatory.' "¹⁷⁶ To the extent VHA facilities continue to rely on kiosks, it is important that VA evaluate their accessibility and fix any shortfalls.

Going forward, VA will also need to make sure that the app remains accessible through frequent testing and feedback from people with a broad range of disabilities, even after development has concluded. The agency will also need to ensure that VA staff are trained on conducting manual check-ins. Manual check-ins are necessary for veterans who are unwilling or unable to use an app, including veterans who may not have a smartphone.

¹⁶⁸ "What is a 'Kiosk?'" , Department of Veterans Affairs, accessed through Internet Archive on December 2, 2022, <https://web.archive.org/web/20220707152320/> and <https://www.va.gov/healthbenefits/access/kiosks.asp>.

¹⁶⁹ *Supra*, note 44, Aging Accessible Technology Hearing, at 84, statement of James Vale.

¹⁷⁰ *Id.*

¹⁷¹ Letter from James Vale (Blinded Veterans Association), et al., to Senator Casey, September 23, 2022, at 1-2 [on file with the Committee].

¹⁷² *Id.*, at 2.

¹⁷³ *Id.*, at 2.

¹⁷⁴ *Id.*, at 1.

¹⁷⁵ *Supra*, note 112, VA Web Report, at 4. During a December 2022 briefing, VA said that the phaseout of kiosks is not consistent across VHA. Local facilities have been allowed to keep kiosks in place in order to prevent service disruption, with VA citing issues such as poor Wi-Fi and cell phone service that may hinder the ability to use the mobile app in some VHA locations.

¹⁷⁶ *Supra*, note 66, Joint Letter to GSA.



Finding 2: Federal technology presents accessibility barriers for people with disabilities at departments and agencies across the government.

Problems with inaccessible technology are not limited to VA, a fact made clear by the 2021 independent study that found that 30 percent of the most popular Federal websites did not pass an automated accessibility test for their home page.¹⁷⁷ In addition, a series of lawsuits have also been filed against Federal departments and agencies over the past decade alleging the use of inaccessible technology. Many of these lawsuits, while dealing with technology covered by Section 508, were brought under a related provision, Section 504 of the Rehabilitation Act.¹⁷⁸

For example, visitors to SSA offices throughout the United States are required to check in using “Visitor Intake Processing kiosks.”¹⁷⁹ These kiosks can be made accessible by installing an audio component, a tactile keypad, and a headphone jack.¹⁸⁰ However, multiple plaintiffs alleged in a lawsuit against SSA that the agency installed kiosks that are not accessible.¹⁸¹ For example, one plaintiff alleged that there were accessibility issues with kiosks at an SSA office in California:

The keypad was not connected to the kiosk and the audio feature did not seem to be activated. When Ms. Irving asked why these accessibility features had not been fixed, [an SSA] supervisor told her that no one really used them. The Braille instructions attached to the side of the kiosk were nearly impossible to read. The Braille was smashed in and the location of the kiosk, right next to the metal detector by the entrance, did not allow Ms. Irving the time or space to read the instructions.¹⁸²

Another plaintiff in the same lawsuit alleged that there were problems at an SSA office in Ohio:

Amy Bonano is a blind recipient of SSA benefits.... Ms. Bonano required assistance to use the [Visitor Intake Processing] kiosk, as the kiosk had no Braille or audio instructions, no headphone jack, and no keypad. Ms. Bonano had to ask the security guard to enter her information for her on the kiosk.... Because Ms. Bonano could not access the number on her printed ticket, she relied on the security guard to tell her what her number was. Ms. Bonano eventually realized the security guard had read her the incorrect check-in number. She had to ask other visitors to read her ticket for her.¹⁸³

The lawsuit against the SSA was settled in 2020.¹⁸⁴ Under the agreement, the SSA was required to “work with a mutually agreeable third-party kiosk accessibility expert to ensure that the kiosks are redesigned to provide an equal opportunity for blind users.”¹⁸⁵ In July 2022, the Committee received testimony alleging that “the agency is now breaching that agreement and has reopened its field offices with the

¹⁷⁷ *Supra*, note 55, ITIF Report.

¹⁷⁸ As noted earlier in the report, Section 504 of the Rehabilitation Act prohibits discrimination in Federally funded programs on the basis of a disability.

¹⁷⁹ Complaint for Declaratory and Injunctive Relief, *Irving, et al. v. Berryhill*, 3:17-cv-01730-BAS-KSC, United States District Court for the Southern District of California, August 28, 2017, at 1.

¹⁸⁰ *Id.*, at 4.

¹⁸¹ *Id.*

¹⁸² *Id.*, at 5-6.

¹⁸³ *Id.*, at 7.

¹⁸⁴ “Blind Americans Settle Lawsuit Against Social Security Administration,” National Federation of the Blind, March 12, 2020, <https://nfb.org/about-us/press-room/blind-americans-settle-lawsuit-against-social-security-administration>.

¹⁸⁵ *Id.*



inaccessible kiosks still in place without even instructing staff how to accommodate individuals with disabilities.”¹⁸⁶

A similar accessibility lawsuit was brought against the General Services Administration (GSA) by the American Council of the Blind (ACB) in connection with its role administering the Federal government’s non-defense contracts via a website called Sam.gov.¹⁸⁷ The lawsuit alleged that Sam.gov was not accessible for screen readers, which created accessibility barriers for blind contractors seeking to renew:

While attempting to renew on Sam.gov, Mr. Berman encountered numerous barriers to accessibility.... Upon encountering these difficulties, Mr. Berman contacted Sam.gov’s helpdesk. The helpdesk was unable to assist Mr. Berman and after three months and numerous interactions with the helpdesk, Mr. Berman’s contractor registration expired.¹⁸⁸

This lawsuit was settled in 2015.¹⁸⁹ The settlement required the GSA to make independently verified accessibility improvements to Sam.gov.¹⁹⁰ It also created a process to allow people with disabilities to provide feedback on future changes to that website.¹⁹¹

There also have been reports of accessibility problems with technology at the Department of Health and Human Services (HHS). Those accessibility problems include issues with technology at HHS components like the Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS). The National Association of the Deaf (NAD) provided testimony to the Committee stating that HHS and CDC did not properly ensure their web-based updates were accessible for people with disabilities during the COVID-19 pandemic:

At the beginning of the pandemic, several government agencies such as the Department of Health and Human Services (HHS) disseminated COVID-19 videos that lacked proper captioning and American Sign Language (ASL). This failure to ensure Section 508 compliance put deaf and hard of hearing people more at risk with respect to the coronavirus as they were left behind without access to the latest updates and actions shared by the U.S. government.¹⁹²

The NAD further reported that when it contacted CDC, “it took repeated inquiries for more than a month” before the organization was assured ASL videos would be produced.¹⁹³ Even then, NAD alleges it took several more weeks for those videos to be posted, a time during which deaf and hard of hearing people did not have equal access to information about COVID-19.¹⁹⁴ According to the NAD, CDC has

¹⁸⁶ *Supra*, note 44, Aging Accessible Technology Hearing, at 37, testimony of Eve Hill. Ms. Hill told investigative staff in November 2022 that SSA had been notified of the plaintiffs’ concerns about compliance with the consent decree.

¹⁸⁷ Complaint, *American Council for the Blind v. Tangherlini*, 1:14-cv-00671, United States District Court, District of Columbia, April 22, 2014, at 2, https://www.washlaw.org/pdf/filed_gsa_complaint.PDF.

¹⁸⁸ *Id.*, at 11-12.

¹⁸⁹ “The Committee and Sutherland Reach Landmark Settlement with GSA on Behalf of Blind Federal Contractors and the American Council of the Blind,” Washington Lawyers’ Committee for Civil Rights and Urban Affairs, November 10, 2015, <https://www.washlaw.org/gsa-settlement/>.

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Supra*, note 44, Aging Accessible Technology Hearing, at 106, statement of Howard Rosenblum.

¹⁹³ *Id.*

¹⁹⁴ *Id.*



failed to ensure accurate ASL translation in several subsequent videos.¹⁹⁵ Although ASL translation is not currently a requirement under the Access Board’s Section 508 standards, it is considered a best practice. People who are deaf since birth or early childhood may have trouble reading or understanding written language because ASL is their native language.¹⁹⁶

In another example of a barrier to essential Federal government information, Jule Ann Lieberman told the Committee of her experience attempting to access COVID-19 information through the CDC website, which she said was not accessible for web users who are blind or low vision:

In my personal experience, for example, when visiting the CDC.gov website to gather information such as the prevalence of COVID 19 (sic) ... the information was presented in a graph with no text description. Therefore, this information was not available for my screen reader to access and obtain the information I needed. I relied on others with vision to provide me with the graph’s information. I am fortunate to have an incredibly supportive family; however, as a person with a disability, I must wait until they are available to assist. Repeated requests for help become burdensome for those who support me, potentially leaving me with either no access or not timely information.¹⁹⁷

Ms. Lieberman described a similar scenario when she sought to obtain a COVID-19 vaccine:

As the COVID pandemic continued and vaccines became available once again, I turned to the Internet to find locations through CDC.gov where I could make an appointment. Here, I encountered another barrier. I experienced that sites and appointment requests were only accessed using a mouse click. As I cannot use a mouse to make selections, this was a frustrating and anxiety-producing time.¹⁹⁸

She further added that “[f]ailures of accessibility are likely not intentional but result from quick response times and a lack of knowledge of the accessibility guidelines.”¹⁹⁹

More recently, investigative staff discovered that PDF documents posted to the CDC website are not accessible for people with disabilities. In a blatant example of not making information accessible, CDC posted a page containing presentation slides for the October 2022 meeting of the Advisory Committee on Immunization Practices (ACIP), which develops vaccine recommendations and provides public health guidance for the use of vaccines.²⁰⁰ The page noted at the top, in red, that the documents “are not yet 508.”²⁰¹ (See Figure 13). It is true that agencies face pressure to post information quickly, especially during an emergency. However, time-sensitive information is time-sensitive for everyone. Failing to post that information in an accessible format disadvantages people with disabilities and may even place them in danger.

¹⁹⁵ *Id.*, at 106-107.

¹⁹⁶ “Sign Languages,” W3C, last updated April 12, 2021, <https://www.w3.org/WAI/media/av/sign-languages/>.

¹⁹⁷ *Supra*, note 44, Aging Accessible Technology Hearing, at 49-50, statement of Jule Ann Lieberman.

¹⁹⁸ *Id.*, at 50.

¹⁹⁹ *Id.*

²⁰⁰ “ACIP Presentation Slides: October 19-20, 2022 Meeting,” Centers for Disease Control and Prevention, last updated October 21, 2022, <https://www.cdc.gov/vaccines/acip/meetings/slides-2022-10-19-20.html>. For a description of the advisory committee’s responsibilities, see “General Committee-Related Information,” Centers for Disease Control and Prevention, last updated October 8, 2020, <https://www.cdc.gov/vaccines/acip/committee/index.html>.

²⁰¹ “ACIP Presentation Slides: October 19-20, 2022 Meeting,” Centers for Disease Control and Prevention, last updated October 21, 2022, <https://www.cdc.gov/vaccines/acip/meetings/slides-2022-10-19-20.html>.



Español | Other Languages

CDC Centers for Disease Control and Prevention
CDC 24/7: Saving Lives, Protecting People™

Vaccines site

Advisory Committee on Immunization Practices (ACIP)

CDC > ACIP Home > Meeting Information

ACIP Home

Meeting Information

ACIP Presentation Slides: October 19-20, 2022 Meeting

Committee Information +

Committee Members +

Apply for ACIP Membership

Work Groups +

Recommendations +

Evidence Based Recommendations +

Related Links

[Vaccines & Immunizations](#)

ACIP Presentation Slides: October 19-20, 2022 Meeting

[Print](#)

Note: These files are not yet 508

Slides will be added as they become available.

October 19, 2022

Welcome & Introductions

- Introduction
Dr. G Lee
Dr. M Wharton

Pneumococcal Vaccines

- [Introduction](#) [15 pages]
Dr. K Poehling
- [Cost-effectiveness analysis of PCV20 use among adults who previously received PCV13](#) [39 pages]
Dr. C Stoecker
- [Summary of work group interpretation of ETr and proposed recommendations](#) [87 pages]

On This Page

[Pneumococcal Vaccines](#)

[Chikungunya Vaccines](#)

[COVID-19 Vaccines](#)

[Polio Vaccines](#)

[Combined Immunization Schedule](#)

[Respiratory Syncytial Virus \(RSV\) Vaccines - Older Adults](#)

[Respiratory Syncytial Virus \(RSV\) Vaccine - Maternal/Pediatric](#)

[Meningococcal Vaccines](#)

[Influenza Vaccines](#)

Figure 13: This screenshot of a CDC webpage was taken on October 31, 2022. There is a note at the top, circled, stating that the PDF documents on this page are not compliant with Section 508. **Source:** <https://www.cdc.gov/vaccines/acip/meetings/slides-2022-10-19-20.html>.



There are other reported problems at HHS agencies. For example, in 2018, the NFB settled a lawsuit with CMS that dealt, in part, with inaccessible technology.²⁰² One element of the NFB lawsuit against CMS related to Medicare Summary Notices (MSNs), which detail what codes were billed to Medicare during a three-month period, and informs beneficiaries what Medicare paid and what they may still owe to their provider.²⁰³ Among the allegations was that the site was not designed for screen reader access:

The electronic MSNs, available in Portable Document Format (“PDF”), do not contain “tags” that provide the blind reader with the structural markup presented visually to a sighted reader, such as paragraphing or an indication that something is a heading, footnote, or table. In the absence of tags, assistive technology may not convey items in the document in logical order or may not convey them at all and, thus, is not equally effective communication.²⁰⁴

Aside from MSNs, the lawsuit also alleged a lack of accessibility with documents available through Medicare.gov and inaccessible forms on the CMS website.²⁰⁵ According to the complaint:

Juan Figueroa became blind as a teenager and receives Medicare Parts A and B. He reads written information through Braille and screen reading software. Mr. Figueroa has attempted to access his Medicare account online ... but the website is inaccessible to him from the point where he tries to reach his individual account on the “My Accounts” page. Mr. Figueroa, an adult, must depend on his sighted mother to read print communications from CMS to him. Because her primary language is Spanish, she cannot always convey the complexities and nuances of his Medicare communications. For example, Mr. Figueroa received a diagnosis of diabetes in early 2015. In May 2015 he went to his pharmacy to obtain a “talking glucometer” for his diabetic self-care routine. The pharmacy ... informed Mr. Figueroa that Medicare evidently required some kind of additional evidence of his blindness before it would cover the device. Mr. Figueroa is certain that Medicare knows that he is blind, and is unsure what additional documentation could be required.... While Mr. Figueroa eventually received a talking glucometer through his doctor, he does not know exactly how the device came to be covered and has no assurance that he will not encounter another unexpected Medicare coverage problem.²⁰⁶

The NFB testified to the Committee that it has been involved in lawsuits against several agencies over allegedly inaccessible technology during the past decade.²⁰⁷ The suits include the Department of Education, the Small Business Administration, and the Department of Agriculture.²⁰⁸ While Federal agencies generally do not admit wrongdoing when they settle lawsuits, the number of lawsuits settled by the NFB suggest a pattern of accessibility shortfalls is present across the Federal government.

²⁰² “Medicare Information to Become Accessible to Blind Beneficiaries,” National Federation of the Blind, April 25, 2018, <https://nfb.org/about-us/press-room/medicare-information-become-accessible-blind-beneficiaries>.

²⁰³ “Medicare Summary Notice (MSN),” Centers for Medicare and Medicaid Services, last accessed December 2, 2022, <https://www.medicare.gov/basics/forms-publications-mailings/mailings/costs-and-coverage/medicare-summary-notice>.

²⁰⁴ Complaint for Declaratory and Injunctive Relief, *Figueroa et. al. v. Burwell*, 3:16-cv-30027, United States District Court for the District of Massachusetts, February 10, 2016, at 7.

²⁰⁵ *Id.*, at 11-12.

²⁰⁶ *Id.*, at 13-14.

²⁰⁷ *Supra*, note 44, Aging Accessible Technology Hearing, at 46, statement of Anil Lewis.

²⁰⁸ *Id.*



Congressionally Mandated Reports Provide Limited Accessibility Data

While lawsuits and related settlements demonstrate the human impact of Section 508-related accessibility barriers on taxpayers and Federal employees, there is a dearth of current and comprehensive data regarding compliance for individual Federal departments and agencies.

What little information does exist appears to be contained in reports required by the 21st Century Integrated Digital Experience Act (21st Century IDEA), signed into law in 2018.²⁰⁹ The law instructed departments and agencies to issue reports to Congress and the public regarding progress to modernize websites and digital services, including ensuring accessibility in accordance with Section 508.²¹⁰ Investigative staff reviewed 11 reports issued by Cabinet-level departments and agencies, which ranged from providing high-level data regarding website accessibility to not discussing Section 508 compliance or accessibility at all.

The Environmental Protection Agency (EPA) and Department of Interior provided the most comprehensive discussions of accessibility among the 21st Century IDEA reports. EPA graded websites on a pass/fail basis, reporting that websites without any accessibility issues were considered compliant with 21st Century IDEA's accessibility requirement, while websites with accessibility issues were considered non-compliant.²¹¹ EPA reported that seven of its nine primary domains (e.g., epa.gov, sustainability.gov, energystar.gov) were not compliant with the 21st Century IDEA accessibility requirement, and that 11 of epa.gov's 20 "subdomains" were not compliant.²¹² The report further noted that "EPA has tools and staff dedicated to ensuring implementation of this requirement on www.epa.gov; however, additional tools and resources are required to accurately measure and track remediation on all EPA domains and subdomains."²¹³ Meanwhile, the Department of Interior reported in December 2021 that seven of its most heavily trafficked websites were "partially" compliant with the 21st Century IDEA Section 508 requirement, while an eighth was not compliant with the requirement.²¹⁴ The partially compliant websites included the U.S. Geological Survey information page about earthquakes, the Office of Surface Mining and Reclamation, and a website with wildfire information—including updates on active fires—for Utah.²¹⁵

Other Federal departments acknowledged Section 508 compliance or the issue of accessibility in their reports, but provided fewer details or context regarding their findings, making them less useful or understandable. For example, the Department of Health and Human Services (HHS) provided results of an internal data call:

HHS has 955 unique and active websites, with several key websites actively using customer feedback to regularly assess and improve content and functionality. These websites and other digital communications platforms are maintained by about 900 FTEs. In the FY20 agency and office data call, HHS received 845 responses (almost 90 percent of all sites).

²⁰⁹ P.L. 115- 336, 44 USC 3501.

²¹⁰ *Id.*, see sections (3)(a), (3)(b) and (3)(c).

²¹¹ Environmental Protection Agency, *Public Law 115-336, "21st Century Integrated Digital Experience Act" December 2022 Report*, at 9, https://www.epa.gov/system/files/documents/2022-11/2022%20EPAs%20Website%20Modernization%20Report%20for%20Congress_VWN.pdf.

²¹² *Id.*, at 7-8.

²¹³ *Id.*, at 9.

²¹⁴ Letter from Deborah Hartley to Yolanda Young, December 16, 2021, <https://www.doi.gov/sites/doi.gov/files/ocio-letter-to-omb-fy21-idea-report-signed-12162021.pdf>.

²¹⁵ *Id.*, 3-4.



HHS sites made substantial progress since 2019, with particularly large improvements in [Section] 508 compliance, searchability, user-centered data, and mobile-friendly.²¹⁶

In another instance, the Department of Commerce noted that Section 508 certification for Census.gov would cost an estimated \$2.5 million during fiscal year 2021. However, the Commerce report did not provide any other explanation of the site's noncompliance with Section 508 or what such certification would entail.²¹⁷

Five of the 21st Century IDEA reports reviewed by investigative staff made mention of Section 508 and/or the issue of accessibility for people with disabilities in varying levels of detail, including the Department of Education,²¹⁸ Department of Homeland Security,²¹⁹ Department of Defense,²²⁰ Department of Labor,²²¹ and the Department of Treasury.²²² Three more reports did not address progress on the 21st Century IDEA requirement to ensure Section 508 compliance at all departments and agencies, including the Department of Housing and Urban Development,²²³ Department of Justice²²⁴ and Department of Transportation.²²⁵

In the absence of other public-facing oversight, the 21st Century IDEA reports provide some limited information regarding Section 508 compliance. The reports make clear that Section 508 compliance—and even the breadth and quality of accessibility evaluations—remain uneven across the government. The uneven compliance underscores the importance of independent oversight by DOJ, GSA, Congress, and other entities, an issue discussed at greater length in Finding 4.

Finding 3: Federal departments and agencies can take years to address Section 508 violations.

Evidence shows that years can pass before Section 508 violations are resolved, even after Federal departments or agencies confirm an accessibility shortfall exists. In fact, data analyzed by investigative staff show that some of the busiest VA websites appear to have become more inaccessible over the course of the last decade.

²¹⁶ Department of Health and Human Services, *21st Century Integrated Digital Experience Act – 2020 Report to OMB and the Public on Modernizing Agency Websites*, December 2020, <https://www.hhs.gov/web/governance/21st-century-idea/idea-2020-report.html>.

²¹⁷ Department of Commerce, *Public Law 115-336, “21st Century Integrated Digital Experience Act (IDEA)” March 2020 Report*, at 6, <https://www.commerce.gov/sites/default/files/2022-07/DOC-Website-Modernization-Report-for-Congress-21-Century-IDEA.pdf>.

²¹⁸ Department of Education, *December 2021 Report to Congress on Modernizing Agency Websites and Digital Services*, <https://www2.ed.gov/digitalstrategy/fy22-21c-idea-report.pdf>.

²¹⁹ Department of Homeland Security, *DHS 21st Century IDEA Report*, December 2020, at 3, https://www.dhs.gov/sites/default/files/2021-11/21_1117_OCIO_2020-dhs-congressional-21st-century-report.pdf.

²²⁰ Department of Defense, *Annual Report on the Progress to Implement the 21st Century Integrated Digital Experience Act (Version 1)*, December 2021, at 1, <https://dodcio.defense.gov/Portals/0/Documents/21stCenturyIDEAReport-2021.pdf>.

²²¹ Department of Labor, *The Department of Labor's Progress to Implement the 21st Century Integrated Digital Experience Act 2020 Annual Report*, December 2020, <https://www.dol.gov/digitalstrategy/idea-2020.pdf>.

²²² Department of the Treasury, *U.S. Department of the Treasury's Progress to Implement the 21st Century Integrated Digital Experience Act 2021 Annual Report*, December 2021, <https://home.treasury.gov/system/files/286/2021-Treasury-Report-to-OMB-21st-Century-IDEA.pdf>.

²²³ Department of Housing and Urban Development, *21st Century Integrated Digital Experience Act Progress Report*, December 2020, <https://www.hud.gov/sites/dfiles/documents/HUD21CenturyIDEA2020ProgRep.pdf>.

²²⁴ Department of Justice, *Report to Congress on Implementation Progress and Modernizing Agency Websites and Digital Services*, December 2019, <https://www.justice.gov/doj/page/file/1228606/download>.

²²⁵ Department of Transportation, *The Department of Transportation's Progress to Implement the 21st Century Integrated Digital Experience Act 2020 Annual Report*, December 2020, <https://www.transportation.gov/sites/dot.gov/files/2021-01/2020-DOT-Report-to-OMB-signed.pdf>.



Understanding the Section 508 Reporting Process

Section 508 complaints are made to the agency that is the subject of the complaint.²²⁶ Section 508 specifies that agencies should apply the same procedures for complaints related to inaccessible technology as they apply to complaints under Section 504, the provision of the Rehabilitation Act prohibiting discrimination in public programs.²²⁷ Under a 2013 strategic plan from the Office of Management and Budget (OMB), Federal agencies were further instructed to include an accessibility statement on their internet and intranet websites.²²⁸ That statement must include contact information for the agency's Section 508 program, the date of the last update, and a method to provide comments or feedback.²²⁹

The exact process for handling concerns related to inaccessible technology can vary from agency to agency. At IRS, the Office of Equity, Diversity, and Inclusion (OEDI) sets policy for handling Section 508 complaints.²³⁰ OEDI uses the same processes as they do for Section 504 complaints.²³¹ According to IRS, those processes involve an inquiry that collects witness statements and examines agency records.²³² On IRS's home page, the OEDI contact information is posted under a "Civil Rights" link.²³³ IRS views OEDI as a "starting place" for Section 508 complaints raised by the public.²³⁴

IRS employees raise potential Section 508 violations through an office called User and Network Services (UNS), which is essentially IRS's information technology help desk.²³⁵ Once filed through UNS, Section 508 issues are entered as tickets into a system that helps UNS troubleshoot the issue.²³⁶ If UNS is unable to solve the issue, it is transferred to the Information Resources Accessibility Program (IRAP), which specializes in Section 508 and assistive technology.²³⁷ IRAP helps solve more complex issues.²³⁸

²²⁶ 29 U.S.C. §794d(f)(2).

²²⁷ 29 U.S.C. §794d(f)(2).

²²⁸ Office of Management and Budget, *Strategic Plan: Improving Management of Section 508 of the Rehabilitation Act* (hereinafter "OMB Strategic Plan"), January 24, 2013, at 3, <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>.

²²⁹ *Id.*

²³⁰ "Internal Revenue Manuals, Part 2: Information Technology," Internal Revenue Service, last updated August 17, 2022, at Section 2.30.1.2.11 (4-6), https://www.irs.gov/irm/part2/irm_02-030-001#idm139645857754240.

²³¹ *Id.*, at Section 2.30.1.2.11 (4).

²³² "Internal Revenue Manuals, Part 1: Organization, Finance, and Management," Internal Revenue Service (hereinafter "IRS Manual Part 1"), last updated August 12, 2020, at Section 1.20.4.5.4, https://www.irs.gov/irm/part1/irm_01-020-004.

²³³ "Protecting Taxpayer Civil Rights," Internal Revenue Service, last updated August 25, 2022, <https://www.irs.gov/about-irs/protecting-taxpayer-civil-rights>.

²³⁴ Natalie Ortiz, *Section 508 of the Rehabilitation Act of 1973*, Congressional Research Service Memorandum, October 5, 2022, at 11 [on file with the Committee]. Note that despite the OEDI's important role in this process, IRS accessibility webpage does not mention them and does not provide a way to contact them. Instead, contact information is provided through the separate civil rights page. This conflicts with OMB's 2013 strategic plan, which requires accessibility pages to have "contact information for the agency Section 508 program" and a means "to provide comments and feedback" regarding the agency's program. See "Accessibility," Internal Revenue Service, last updated August 25, 2022, <https://www.irs.gov/accessibility>; *supra*, note 228, OMB Strategic Plan, at 3.

²³⁵ Natalie Ortiz, *Section 508 of the Rehabilitation Act of 1973*, Congressional Research Service memorandum, October 5, 2022, at 11 [on file with the Committee].

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Supra*, note 232, IRS Manual Part 1, at Section 1.1.12.8.2.3 (1).



The Long Road to Section 508 Remediation

As noted above, there are longstanding concerns about VA’s lack of compliance with accessibility requirements set out by Section 508, as well as the Department’s slow pace of addressing identified problems. These issues are crystalized by an analysis of data that show the majority of VA’s busiest public-facing webpages remain short of 100 percent compliance, eight years after the Department provided audit data to a House oversight subcommittee in response to questions during a 2014 hearing. Furthermore, five of VA’s busiest sites had lower compliance rates in 2022 than they did in 2014—the VBA home page, the webpage for GI Bill information, VA’s facility locator, the Careers site, and a site with information about VA life insurance. The data analysis, which compares data VA provided to the House in 2014 with data it provided in response to Senator Casey’s June 2022 letter, can be found below in **Table 1**.

Table 1: Comparing Section 508 Compliance at VA’s 12 Busiest Websites (2014 and 2022)

Website	Section 508 Compliance Rate	
	2014 Audit	2022 Audit
VA Home Page (www.va.gov)	59%	70%
Veterans Benefits Administration (www.vba.va.gov)*	57%	50%
VBA Education and Training (GI Bill) (www.gibill.va.gov)**	89%	50%
Office of Public and Intergovernmental Affairs (www.va.gov/opa)	52%	66%
Facility and Leadership Directory (www.va.gov/directory)	80%	60%
VA Forms (www.va.gov/forms)***	92%	100%
VA Careers (www.vacareers.va.gov)	87%	16%
Veterans Health Administration (www.va.gov/health)	78%	81%
Life Insurance (www.insurance.va.gov)****	92%	56%
VA Jobs (www.va.gov/jobs)	50%	100%
EBenefits Portal (www.ebenefits.va.gov/ebenefits-portal/ebenefits.portal)	15%	Not listed
My HealtheVet web portal (www.myhealth.va.gov)	95%	Not listed

Notes: In some instances, the web addresses listed in VA’s 2014 House testimony do not match the addresses provided in the 2022 audits but appear to be the same pages in both cases. In those instances, investigative staff has treated the compliance rates as comparable and listed the website addresses from the 2022 audit below:

* www.benefits.va.gov

** www.benefits.va.gov/gibill

***- https://www.va.gov/vaforms

**** https://www.benefits.va.gov/insurance/

Sources: *Assessing Inadequacies in VA Data Usage for Services Provided to Visually-Impaired Veterans, Before the Subcommittee on Oversight and Investigation, House Committee on Veterans Affairs, 113th Congress, at 56, 2022, Questions for the Record*, <https://www.govinfo.gov/content/pkg/CHRG-113hhrg88981/pdf/CHRG-113hhrg88981.pdf>; letter from VA Secretary McDonough to Senator Casey, at VA-026-VA-040, list of internet website conformance levels, https://www.aging.senate.gov/imo/media/doc/letter_from_secretary_mcdonough_to_senator_casey_re_section_508_compliance.pdf.



The long resolution times to make VA’s popular websites Section 508-compliant track closely with VA’s long remediation timelines for less heavily trafficked, but nonetheless important websites. For example, in response to Senator Casey’s June 2022 letter, VA reported that the National Cemetery Administration expects to take until 2026 to remediate 950 inaccessible PDFs posted on its website—roughly one per workday for three and a half years.²³⁹

The 2014 House hearing also raised concerns about the accessibility of VA’s software, including waivers the department issued that allowed non-compliant software to remain in use. VA testified to the House that a 2012 memo issued by the Assistant Secretary for Information and Technology (ASIT) “effectively rescinded hundreds of waivers, some in effect for years.”²⁴⁰ VA went on to state that some waivers that remained in place, which the Department “considered critical to serving the needs of Veterans, including software products that contain information about how Veterans can access health and benefits information.”²⁴¹ VA testified:

... [T]hese products were only allowed to be deployed after their respective development teams provided remediation plans that would move their applications towards full compliance with the requirements of Section 508, and the 508 Team approved their remediation plans as sufficient. Of the mission-critical products that were granted waivers to the memo, 25 remain noncompliant. Sixteen of these products are internal facing, meaning that they are used exclusively by members of the VA workforce. The other nine are external facing, meaning that they are used by members of the public. VA leadership and staff are actively engaged in implementing the approved remediation plans for each of these products.²⁴²

VA’s response to Senator Casey in July 2022 showed that the Department still maintains eight waivers (which VA referred to as “approved exceptions”) for different types of software, including an “emergency department integration system” that is not compliant with VA’s secure coding standards and has not been supported by Internet Explorer or Google Chrome since the end of 2020.²⁴³ In addition, the information VA provided in response to Senator Casey’s June 2022 letter suggests the Department’s criteria for granting waivers is broader than what was characterized to the House in 2014. VA listed six “general exceptions” in which a waiver may be granted, including (1) legacy information and communication technology (ICT), (2) national security systems, (3) Federal contracts, (4) ICT functions located in maintenance or monitoring spaces, (5) undue burden or fundamental alteration, and (6) best meeting the needs of the Department.²⁴⁴

Long Section 508 Resolution Times at Other Agencies

As with other aspects of Federal technology accessibility, problems are not restricted to VA. The NFB provided testimony to the Committee alleging that “[i]n cases where blind individuals proceed with filing complaints of discrimination, federal agencies can take years to investigate a complaint and longer yet to resolve the accessibility barriers.”²⁴⁵ Additional witness testimony received by the Committee raised concerns about the pace of remediating inaccessible technology at Federal agencies:

²³⁹ *Supra*, note 113, VA Response, at VA-024, National Cemetery Administration 508 Compliance Plan.

²⁴⁰ *Supra*, note 118, 2014 HVAC Oversight Hearing, at 56, Questions for the Record.

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Supra*, note 113, VA Response, at VA-017–VA-020.

²⁴⁴ *Id.*, at VA-016.

²⁴⁵ *Supra*, note 44, Aging Accessible Technology Hearing, at 47, statement of Anil Lewis.



In each case, the federal agency responsible has been nonresponsive to requests to fix the problem. In one case, the agency has failed to act on the employee’s formal Section 508 complaint **for eight years so far** (emphasis included in original). In another recent case, the agency sat on a Section 508 complaint for nearly five years and had to be sued under the Administrative Procedure Act to force it to take action.²⁴⁶

For Federal employees with disabilities, delays mean extra time during which their career may be affected—or even endangered—because they cannot do their job. For members of the public with disabilities, delays mean additional time during which they lack equal access to government services and information. If there is a crisis, or if access is time-sensitive, the lack of access may endanger their well-being.

Finding 4: Insufficient oversight and enforcement of Section 508 standards has led to a lack of compliance with the law and Federal technology that is inaccessible for people with disabilities.

The evidence detailed in this report demonstrates the widespread problems with Section 508 compliance across the Federal government, as well as the slow pace of resolving violations when they are identified. These ongoing issues present barriers for people with disabilities, including older adults and veterans, seeking to access services and information. A central issue contributing to this apparent lack of compliance is a lack of oversight, transparent data, and enforcement.

As noted in Part I of this report, the full extent of the Federal Section 508 compliance problem has been unknown for the last decade, except for the findings of the third-party report released in 2021 and anecdotal evidence from testimony and legal settlements discussed above. This lack of visibility about the scope of accessibility problems is partly due to the Department of Justice’s failure to issue statutorily mandated reports examining the accessibility of Federal technology since 2012. Section 508 requires such reports to be issued biennially, as the law plainly reads, “every 2 years ... the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints....”²⁴⁷ In response to the Committee’s oversight, DOJ committed in November 2022 to compile and release these statutorily required reports, resuming Section 508’s required oversight mechanism.

The GSA monitors Section 508 compliance; however, none of these data and analyses are released to the public, or to Congress. Certain Federal agencies are required to submit data on their Section 508 programs and the accessibility of their technology to GSA twice a year.²⁴⁸ That data is collected by the Office of Management and Budget and analyzed by the GSA and the Accessibility Community of Practice of the Chief Information Officer Council.²⁴⁹ The GSA also performs routine scans of the home

²⁴⁶ *Supra*, note 44, Aging Accessible Technology Hearing, at 37, statement of Eve Hill.

²⁴⁷ 29 U.S.C. §794d(d)(2).

²⁴⁸ “Section 508 Program Maturity Reporting,” General Services Administration, last updated November 2022, <https://www.section508.gov/manage/reporting/>. Reports are required from CFO Act Agencies, while it is recommended that other agencies submit reports. This requirement grew out of the OMB’s 2013 Strategic Plan for Improving Management of Section 508. *See supra*, note 228, OMB Strategic Plan.

²⁴⁹ “Section 508 Program Maturity Reporting,” General Services Administration, last updated November 2022, <https://www.section508.gov/manage/reporting/>.



page of each Federal government website.²⁵⁰ Those scans are done on a biweekly basis and monitor conformance to some Section 508 standards.²⁵¹

A lack of oversight by Congress and independent watchdogs has likely contributed to the withering effectiveness of Section 508’s oversight mechanisms. At the same time, the lack of DOJ public reporting over the last decade has likely contributed to Congress not pursuing additional oversight of Federal compliance issues, without robust and regular information. Prior to the Committee’s 2022 hearing on website accessibility, investigative staff were only able to identify two hearings—in 2012 before the Senate Health, Education, Labor, and Pensions Committee, and in 2014 before a House Veterans’ Affairs subcommittee (referenced above)—that have examined Section 508 compliance in any detail.²⁵² Furthermore, GAO does not appear to have conducted an audit devoted to Section 508 compliance this century, and Section 508 compliance does not appear to be a focus of most inspectors general.

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.”²⁵³ 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.”²⁵⁴ Moreover, Section 508 compliance responsibilities may be given to agency employees with other, full-time responsibilities,²⁵⁵ an observation in line with what VA reported in response to Senator Casey’s letter: “[The Department’s] Section 508 office is limited in mission and in scope and as part of [the Office of Information and Technology], limited in influence.”²⁵⁶

Even VA’s ability to oversee its Section 508 compliance is insufficient—concerns Senator Casey conveyed to the Department and the GSA in a pair of October 2022 letters.²⁵⁷ VA provided information regarding cancellation of a contract in September 2021 that limited VA’s ability to “conduct monthly automated scanning compliance assessments for 792 Internet/Intranet web sites for Veterans Health Administration (VHA), Veterans Benefits Administration (VBA), VA Central Office (VACO), and National Cemetery Administration (NCA) combined.”²⁵⁸ The cancellation of the contract led to:

- Inability to collect timely website/webpage metrics mandated by Federal law for agency and outside stakeholders to include Office of Management and Budget (OMB), Department of Justice (DOJ), and Congress;

²⁵⁰ Natalie Ortiz, *The Accessibility of Federal Information and Data: A Brief Overview of Section 508 of the Rehabilitation Act*, Congressional Research Service, May 3, 2022, at 2, <https://crsreports.congress.gov/product/pdf/IF/IF12093/1>.

²⁵¹ *Id.*

²⁵² *Supra*, note 118, 2014 HVAC Oversight Hearing; *The Promise of Accessible Technology: Challenges and Opportunities, Before the Senate Committee on Health, Education, Labor, and Pensions*, 112th Congress, 2012, <https://www.govinfo.gov/content/pkg/CHRG-112shrg88669/pdf/CHRG-112shrg88669.pdf>. In addition, several hearings were convened during the consideration of the VA Web Accessibility Act.

²⁵³ *Supra*, note 44, Aging Accessible Technology Hearing, at 97, statement of Jonathan Lazar.

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Supra*, note 113, VA Response, at VA-010.

²⁵⁷ *Supra*, note 65, Joint October letter to VA; *supra*, note 66, Joint Letter to GSA.

²⁵⁸ *Supra*, note 113, VA Response, at VA-013.



- Degraded ability for analysis and remediation of accessibility defects for development and sustainment projects;
- Degraded subject matter experts' (SMEs) input to project development teams for remediation of non-compliant sites and projects; and
- Loss of automated tools code checking software updates/maintenance for [development, security, and operations] developers, specifically, Application Programming Interfaces (APIs), compliance verification browser extensions, and automated scanning tool.²⁵⁹

As this report was being finalized, VA reported to investigative staff that a new scanning contract had been awarded in November 2022. After onboarding the new contractor, VA expects to be able to begin conducting automated Section 508 compliance scans during the first quarter of 2023—nearly 18 months after VA lost its scanning capability.²⁶⁰ Apart from VA not having website compliance scanning ability for a year and a half, by its own assessment, VA is not furnishing required accessibility information to the government-wide oversight mechanisms that are in place. It is extremely concerning such a contract was allowed to lapse given the Department's widespread Section 508 compliance issues that have festered for years.

Without oversight, transparent data, and enforcement mechanisms, it is impossible for taxpayers or Congress to ensure Executive Branch agencies are making their technologies accessible for people with disabilities. Moreover, the lack of public data reduces the pressure for Federal agencies to prioritize accessibility. As one witness noted in testimony to the Committee, “[t]ransparency will incentivize agencies to ensure technology is accessible from the beginning, when it is inexpensive and simple, rather than waiting to remediate inaccessible technology when they receive a complaint.”²⁶¹

²⁵⁹ *Id.*

²⁶⁰ Briefing with Department of Veterans Affairs, December 1, 2022.

²⁶¹ *Supra*, note 44, Aging Accessible Technology Hearing, at 38, statement of Eve Hill.



V. CONCLUSION

When President Reagan signed Section 508 of the Rehabilitation Act into law, it signaled that people with disabilities deserved equal access to Federal services, information, and jobs reliant on technology. When Congress amended the law in 1998, it recognized that additional oversight and more prescriptive requirements were needed to attain accessible information and services, particularly as communications technology was advancing at breakneck speeds.

Nearly 25 years on, it is more important than ever that the technology of the Federal government be accessible for people with disabilities, including older adults and veterans, who experience disabilities at higher rates than the general population. Accessible technology is crucial for people seeking to secure health care, receive Social Security and VA benefits, pay taxes, and navigate Federal information ranging from weather forecasts to economic data. The COVID-19 pandemic increased the Nation's reliance on the internet to access basic services—driving home the importance of accessible Federal websites and communications technology.

The findings of this report make clear that significant work remains to be done:

1. VA has failed make its technology accessible for people with disabilities;
2. Accessibility issues extend to technology at departments and agencies beyond VA;
3. Federal departments and agencies can take years to address Section 508 violations; and
4. Insufficient oversight and enforcement of Section 508 has led to a lack of compliance, resulting in Federal technology that is inaccessible for people with disabilities.

The recommendations that follow show the responsibility for improving accessibility lies with both the Executive Branch and Congress. The key oversight mechanism of Section 508—the Attorney General's issuance of biennial progress reports—must be rebooted after a decade-long hiatus. To further strengthen access to Federal government electronic information and services, independent government watchdogs should consider incorporating Section 508 compliance into their work plans. In addition, people with disabilities and older adults should have a seat at the table when Federal departments and agencies develop electronic and information technology. Legislative updates also may be warranted, given that Section 508 was signed into law at a time when smartphones were in their infancy and hundreds of thousands of Federal employees did not have email or internet access at work.²⁶²

Our Nation is rapidly aging. According to the Administration for Community Living, the U.S. “population age 65 and older increased from 39.6 million in 2009 to 54.1 million in 2019,” and by “2040, there will be about 80.8 million older persons, more than twice as many as in 2000.”²⁶³ As these demographic shifts continue, it is of paramount importance that Federal services—and the way they are delivered—meet taxpayers where they are. Ensuring that Federal technology is accessible for people with disabilities is an important place to start.

²⁶² *Supra*, note 19, Federal Internet Use Audit, at 35-36.

²⁶³ Administration for Community Living, *2020 Profile of Older Americans*, May 2021, at 5, https://acl.gov/sites/default/files/aging%20and%20Disability%20in%20America/2020Profileolderamericans.final_.pdf.



VI. RECOMMENDATIONS

In light of the report's findings, Majority staff make the following recommendations to the Executive Branch and Congress:

A. Increasing Accountability and Transparency

1. **The Department of Justice (DOJ) should resume reporting on Federal compliance with Section 508 requirements.** The 1998 amendments required DOJ to submit reports on a biennial basis to Congress and the President regarding Section 508 compliance across the Federal government. Despite this statutory requirement and clear guidance about the importance of this accountability measure from the Office of Management and Budget (OMB), DOJ has not issued such a report since 2012. In response to the Committee's oversight, DOJ recently committed to issuing its first report in a decade.
2. **The General Services Administration (GSA) should publish data on Section 508 compliance.** Working with the OMB, GSA gathers and analyzes Section 508 compliance data reported by agencies twice a year. Making GSA data and analysis publicly available in a timely fashion will increase transparency and accountability about Federal compliance with Section 508 accessibility requirements. GSA should also consider the feasibility of publishing the frequent scans it conducts on agency websites.
3. **The Office of Management and Budget (OMB) should review its strategic plan for improving management of Section 508.** In 2013, OMB issued a government-wide memorandum setting out plans to improve Section 508 compliance. Given that the memorandum is nearly a decade old, OMB should review the plan, taking into consideration shortcomings identified in this report, future Section 508 evaluations issued by DOJ, GSA/OMB data and legal settlements, among other sources, as well as expertise from the disability community and organizations representing older adults.
4. **Inspectors general should increase oversight of Section 508 compliance.** This investigation found few instances where independent watchdogs had examined compliance with Section 508 requirements. Increased oversight from inspectors general would likely result in improved accessibility for taxpayers and workers using Federal technology. Such oversight may also lead to cost savings, given that remediating non-compliant websites resulted in additional costs for departments and agencies.

B. Improving the Accessibility of Federal Technology for Workers and Taxpayers

1. **Departments and agencies must maintain capacity to conduct automated Section 508 compliance scans.** The investigation found that the Department of Veterans Affairs' (VA) ability to conduct monthly automated compliance assessments was limited for more than a year by the cancellation of a contract with a vendor hired to review Section 508 compliance. As a result, VA reported that its ability to analyze and remediate accessibility defects was "degraded," and the Department was unable to collect timely website accessibility data mandated by Federal law. In order to ensure technology is accessible, Federal departments and agencies must maintain continuity of Section 508 compliance review capability, whether internally or through contracts.



2. **Departments and agencies should incorporate people with disabilities and older adults into technology planning and evaluation.** Older adults are a rapidly growing segment of the U.S. population who frequently utilize government services and experience disabilities at a higher rate than the general population. Federal departments and agencies should increase outreach to people with disabilities and older adults to ensure that selection, installment, and evaluation of technology is accessible and usable for these populations.
3. **Departments and agencies should broaden the use of human testers to evaluate Section 508 compliance and technology accessibility.** While automated tools are available and can help agencies scan for Section 508 violations, they will not catch all violations, underscoring the important role of trained human testers. One potential approach is to follow the lead of some departments and agencies that use the “Trusted Tester” program developed by the Department of Homeland Security, which provides testers with standardized training to evaluate the accessibility of websites.
4. **Departments and agencies should consider appointment of accessibility officers with direct responsibility for Section 508 compliance.** The investigation found evidence of departments and agencies splitting Section 508 compliance responsibilities among multiple divisions or offices. Rather than locating Section 508 compliance among multiple offices, housing Section 508 compliance responsibilities within existing accessibility offices or creating offices whose responsibilities include oversight of Section 508 compliance could improve the accessibility of technology within these organizations.
5. **Departments and agencies should ensure that Federal workers and the public have robust reporting pathways for Section 508 complaints.** The investigation found that departments and agencies were slow to resolve Section 508 issues and complaints brought to them by workers and the public. Shortening the timelines to resolve Section 508 compliance violations will improve the accessibility of government information and services for taxpayers and improve work environments for Federal employees.

C. Actions for Congress

1. **Congress should consider amending Section 508, a quarter-century after it was last substantially updated.** Electronic and information technology has changed dramatically since 1998, when Congress last amended Section 508. Given the Federal government’s increasing reliance on delivering information and services electronically, Congress should reexamine this law to ensure it is meeting the needs of people with disabilities and the rapidly growing population of older adults. Congress should consider issues including, but not limited to:
 - Examining current statutory language in relation to the accessibility needs of people with disabilities, current technology, and workability for Executive Branch agencies;
 - Developing additional accountability measures to improve Section 508 compliance across the government;
 - Providing the Access Board with enforcement authority and necessary resources to carry out such authority;



- Allocating appropriations targeted at improving the accessibility of technology; and
 - Evaluating the ability of taxpayers and Federal workers to have Section 508 complaints promptly resolved, including through lawsuits filed against departments and agencies.
2. **Congress should hold Federal departments and agencies accountable for Section 508 compliance through oversight and legislation.** The breadth of Section 508 compliance shortfalls at VA came to light due to the Department’s 2021 statutorily required report issued in response to the VA Website Accessibility Act. VA’s report provided significant insight into longstanding issues at the Department, which may be mirrored at other departments and agencies. In addition to routine oversight, authorizing committees should consider requiring departments and agencies within their jurisdiction to publicly report on Section 508 compliance. Appropriators, meanwhile, should consider including language in spending bills specifically requiring departments and agencies to follow Section 508 requirements. Members of Congress interested in good governance should consider incorporating Section 508 requirements or reporting into future legislation.
 3. **Congress should ensure the accessibility of its own technology and websites for people with disabilities and older adults.** Section 508 does not apply to Congress; however, people with disabilities and older adults need accessible and usable legislative information in order to fully participate in our Nation’s representative democracy. In making this recommendation, Majority staff notes three recommendations issued by the Select Committee on the Modernization of Congress during the 116th and 117th sessions, which call for (1) improving access to congressional websites for individuals with disabilities; (2) including closed caption service for House proceedings; and (3) promoting awareness of accessibility requirements for House websites and providing staff training and tools to help them properly maintain and update those sites.²⁶⁴ The Chief Administrative Office began implementing these recommendations in the House of Representatives in 2019.²⁶⁵ The Senate Sergeant at Arms reported to investigative staff that all the Senate’s public-facing websites are compliant with WCAG Level AA standards, although it does not currently conduct systematic checks for compliance.

²⁶⁴ “116th Congress Recommendations,” Select Committee on the Modernization of Congress, last accessed December 2, 2022, <https://modernizecongress.house.gov/116th-recommendations>; “117th Congress Recommendations,” Select Committee on the Modernization of Congress, last accessed December 2, 2022, <https://modernizecongress.house.gov/117th-recommendations>.

²⁶⁵ “Progress on 116th and 117th Congress Recommendations,” Select Committee on the Modernization of Congress, last accessed on December 2, 2022, <https://modernizecongress.house.gov/implementation>. See also, email from Catherine Szpindor to Peter Gartrell, December 2, 2022 [on file with the Committee]; email from Karen Gibson to Peter Gartrell, December 2, 2022 [on file with the Committee].



APPENDIX A
Letters Related to the Investigation



Congress of the United States

Washington, DC 20510

June 6, 2022

The Honorable Denis McDonough
Secretary
United States Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary McDonough:

We write with continuing concern regarding the Department of Veterans Affairs' (VA's) poor compliance with Section 508 of the Rehabilitation Act of 1973, which was amended nearly a quarter century ago to require government electronic and information technology, including websites, to be accessible for individuals with disabilities.¹ A report required by the VA Website Accessibility Act of 2019² showed that only eight percent of VA's internet sites and six percent of its intranet sites are fully compliant with Section 508.³ This lack of compliance is a problem for the one-quarter of all veterans with a service-connected disability,⁴ as well as the 26 percent of the general public with a disability,⁵ including veterans, VA employees and people who might seek information from the Department on behalf of a veteran. Furthermore, 46 percent of our Nation's roughly 19 million veterans are 65 years or older; as a group, older adults experience higher rates of disabilities than the general population.⁶ Unfortunately, VA's report omitted important details about the Department's plans to address these long-standing problems and, in multiple cases, did not include remediation plans for key organizations within VA. We are also concerned that VA's outreach on Section 508 compliance does not cover a comprehensive range of disabilities and that a lack of clear responsibility within the Department, low prioritization and ongoing contracting problems are hampering VA's ability to correct its deficiencies.

¹ 29 U.S.C. §794d; Section 508 was added to the Rehabilitation Act in 1986, at which time it included non-binding standards for accessible government electronic and information technology. Further amendments in 1998 strengthened those standards and made them a requirement. See Department of Veterans Affairs, "Section 508 of the Rehabilitation Act of 1973," Government Services Administration, updated March 2022, <https://www.section508.gov/manage/laws-and-policies/>. See also Department of Justice, "Title IV—Rehabilitation Act Amendments of 1998 Section 508: Electronic and Information Technology," n.d., <https://www.justice.gov/sites/default/files/crt/legacy/2009/02/18/deptofed.pdf>.

² Department of Veterans Affairs Website Accessibility Act of 2019, Pub. Law No. 116-213, 134 Stat. 1024 and 1025 (2019).

³ Department of Veterans Affairs, *Report on the Accessibility of Websites of the Department of Veterans Affairs to Individuals with Disabilities*, n.d., at 2. [hereinafter "VA Report to Congress"].

⁴ Census Bureau, *Those Who Served: America's Veterans From World War II to the War on Terror*, June 2020 (ACS-43), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/acs-43.pdf>.

⁵ "Disability Impacts All of Us," Centers for Disease Control and Prevention, last reviewed September 16, 2020, <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>.

⁶ Department of Veterans Affairs, *VA Benefits & Health Care Utilization*, April 21, 2022, <https://www.va.gov/vetdata/docs/pocketcards/fy2022q3.pdf>.



VA's Website Accessibility Act report to Congress was mandated so VA would be required to show how the agency will fix its websites for all Americans, but it was incomplete and lacked key details. The submissions from the National Cemetery Administration and the Veterans Benefits Administration (VBA) were less than one page long and failed to include substantial plans for remediation. The report also: (1) did not include detailed timelines for remediation for VA as a whole or any organizational element except for the Veterans Health Administration (VHA); (2) failed to explain how VA will prioritize websites for remediation; and (3) lacked plans for sustained involvement from stakeholders representing different disabilities. For these reasons, VA's report failed to meet the law's requirements.

Based on recent discussions with veteran service organizations, disability groups, outside experts and VA itself, we do not believe VA is conducting sufficient outreach on Section 508 remediation.⁷ Examples of disabilities protected by Section 508 include, but are not limited to, visual disabilities, hearing disabilities, cognitive impairment and physical disabilities.⁸ Yet, during a meeting on March 24, VA officials stated that they receive "anecdotal feedback" from individuals with disabilities other than blindness, which we view as insufficient. According to VA, "more than 185,000 veterans who use VA for their health care have been diagnosed with at least one [traumatic brain injury]," a condition that can cause cognitive impairment.⁹ VA has also noted that "[h]earing problems... are by far the most prevalent service-connected disability among American veterans."¹⁰ VA's outreach to the blind community is of great importance but should be a starting point rather than an ending point. VA must include a broader range of individuals with disabilities in the remediation process in a substantive and sustained way.

During the March meeting, VA officials indicated that hundreds of thousands of Section 508 compliance issues remain to be resolved across the Department's various websites. Furthermore, they informed our staff that VA has been unable to scan its websites for compliance with Section 508 since October 2021, due to a lapsed contract. Our offices were unaware of that development, which has significant bearing on the agency's ability to ensure its websites are accessible. Such issues are the latest examples of long-standing Section 508 shortfalls facing the VA.¹¹ For example, in 2016, the VA Office of Inspector General (OIG) conducted an audit of the MyCareers@VA website, which found that Department officials "did not address nearly 200 known Section 508 compliance issues and did not seek certification of compliance" before launching an "enhanced version" of the MyCareer@VA website in 2015.¹² The OIG cited

⁷ This is a long-standing issue, as evidenced by the Department of Justice's most recent government-wide Section 508 compliance report, which was released in 2012. That report underscored the importance of such outreach, when it noted that "...agencies can improve accessibility and usability of a web page by including people with disabilities" in Section 508 testing. United States Department of Justice Civil Rights Division ADA, *Section 508 Report to the President and Congress: Accessibility of Federal Electronic and Information Technology*, September 2012, https://www.ada.gov/508/508_Report.htm.

⁸ *Supra*, "VA Report to Congress," note 3.

⁹ "VA research on Traumatic Brain Injury (TBI)," Office of Research & Development, Department of Veterans, last modified February 16, 2022, <https://www.research.va.gov/topics/tbi.cfm>.

¹⁰ "VA research on Hearing Loss," Office of Research & Development, Department of Veterans, last modified February 16, 2022, <https://www.research.va.gov/topics/hearing.cfm>.

¹¹ Department of Veterans Affairs Office of Inspector General, *Review of Alleged Noncompliance With Section 508 of the Rehabilitation Act on MyCareer@VA Web Site*, April 7, 2016 (VA OIG 15-02781-153), <https://www.oversight.gov/sites/default/files/oig-reports/VAOIG-15-02781-153.pdf>.

¹² *Id.*, at 2.



several reasons for this outcome, including inadequate policy guidance from VA leadership, inadequate processes to ensure 508 compliance and inadequate oversight of contractors.¹³

Given the enormous task facing VA, the lack of substantive remediation plans and the uneven progress toward compliance spanning multiple presidential administrations, we seek additional information about the Department's plans to improve its Section 508 compliance. We ask that you continue to provide our offices with briefings from the appropriate VA offices beginning in June 2022. In addition, we ask that VA provide the information and documents requested below:

1. Please resubmit a revised VA Website Accessibility Act report containing the omitted information, including:
 - a. Detailed information for remediating the National Cemetery Administration and VBA websites.
 - b. Detailed information on how VA will involve a range of stakeholders, including people with disabilities and their advocates, in soliciting accessibility problems and testing remediated websites.
 - c. Specific details on how VA is going to prioritize which websites it fixes first, as well as remediation timelines for both the entire VA and each organizational subdivision.
 - d. Please also provide copies of compliance audits completed by VA's Section 508 office that provide supporting evidence for the compliance gaps or barriers to Section 508 compliance identified in VA's plans.¹⁴

2. In VA Central Office and the Office of Information and Technology's report to Congress, the Department states that it will "[a]dvocate for the creation of a VA Accessibility Offic[e]" as part of its Section 508 remediation plan. This office "will provide policy and training support to the enterprise as well as the operational tasks of assisting the enterprise in the remediation of accessibility issues." It would also "combine the Section 501, Section 504 and Section 508 offices" into the new enterprise-wide office.¹⁵ Please provide an update on the status of this office and a timeline for its establishment, and answer the following questions:
 - a. Which office or offices at VA currently has responsibility for overseeing the VA's Section 508 remediation efforts? Please describe how that office oversees the entire agency, and how individual VA organizations like VHA, VBA and the National Cemetery Administration report back to them on their Section 508 efforts.
 - b. Are there specific projects, including but not limited to VA's Electronic Health Record Modernization contract, that are subject to a different Section 508 reporting process than the rest of VA? If so, what is the justification for setting up a different reporting process?

¹³ *Id.*, at 4.

¹⁴ "What is the Role of the Section 508 Office?" Section 508 Office, Department of Veterans Affairs, last modified May 4, 2022, <https://www.section508.va.gov/>. The VA's Section 508 office conducts "audits and validates [Information and Communication Technology] for compliance with Section 508 standards and policies."

¹⁵ *Supra*, "VA Report to Congress," note 3.



- c. In what specific ways would a central VA Accessibility Office help VA improve its Section 508 compliance and remediation process compared to the current structure?
3. Please describe what steps VA is currently taking or will take to engage with groups representing different classes of disabilities. How does VA plan to broaden its current outreach to be more inclusive of different types of disabilities, including but not limited to the ones outlined in this letter?
4. During the March meeting, VA informed our staff that a lapsed contract had rendered the Department unable to scan its websites for compliance with Section 508 since October 2021. Contracting plays a major role in Section 508 compliance, both in the form of remediation and in the form of delivering accessible novel technology.
 - a. Please describe how the VA uses contractors and subcontractors to monitor and remediate Section 508 compliance problems with existing technology.
 - b. Please provide a list of all contracts, including task orders, related to Section 508 monitoring or remediation that have lapsed for any amount of time since January 1, 2019. For each of these lapsed contracts, please describe the capacity that was lost and the services/projects that were delayed while the contract was lapsed.
5. VA recently proposed regulations to improve its evaluation of information technology projects for Section 508 compliance, an issue that the VA's OIG identified as a problem for the Department in 2016. The proposed regulations specifically call for including a Section 508 checklist in VA solicitations and establishing a website to help contractors with Section 508 standards.¹⁶
 - a. How does the VA currently evaluate contractors' ability to meet specific requirements for Section 508 accessibility and ensure that contractors are aware of those requirements?
 - b. Does the VA have plans to further strengthen how it evaluates the ability of contractors to carry out work in compliance with Section 508?
6. Disability advocates have raised concern that VA is seeking waivers from Section 508 for some ongoing projects, including its new electronic health record system.
 - a. Please outline VA's process for determining the need for and approving a Section 508 waiver, including the circumstances under which a waiver can be requested, how these waivers are evaluated and which office or individual is responsible for approving a waiver. Are these processes uniform across VA, its components, contractors and subcontractors? If not, how do they differ, and what is the justification for those differences?

¹⁶ "VA Acquisition Regulation: Acquisition of Information Technology; and Other Contracts for Goods and Services involving Information, VA Sensitive Information, and Information Security; and Liquidated Damages Requirements for Data Breach," Department of Veterans Affairs, 86 Fed. Reg., No. 219, November 14, 2021, *See* VAAR Part 839—Acquisition of Information Technology, at 64137; *see also* VAAR Part 852—Solicitation Provisions and Contract Clauses, at 64139; *see also* proposed regulatory language, at 64157- 64158. <https://www.federalregister.gov/d/2021-24299>



- b. Please provide a list of all waivers or other variances from the requirements of Section 508 of the Rehabilitation Act that VA, one of its components, contractors, or subcontractors, has sought or operated under since January 1, 2019. Please individually justify the rationale for all waivers the Department has sought.
7. Veterans service organizations have expressed concern that VA’s patient check-in kiosks remain an issue for individuals with disabilities. Those kiosks are scheduled to be phased out, but we are concerned that veterans may face access issues in the meantime.
- a. What is the current rollout schedule for VHA’s mobile app? When does the VA currently expect to begin and complete its phase out of kiosks?
 - b. How does VA provide accessible services in the meantime?
 - c. What kind of training is provided to VA staff to assist individuals with disabilities at VA medical centers?
 - d. How will VA ensure that the mobile application replacing the kiosks is accessible to people with disabilities, and ensure that veterans without access to mobile phones will have ready access to VA services?

Given these long-standing issues, we seek your commitment to prioritize Section 508 compliance and keep our offices abreast of developments concerning your remediation efforts. We ask that VA schedule the first briefing to begin answering the above questions by the end of June 2022. In addition to answering our questions, we welcome information about whether VA has the resources, personnel, and legislative authorities necessary to comply with the law and improve accessibility. We look forward to working with you on this important issue.

Sincerely,

Robert P. Casey, Jr.
Chairman
Senate Special Committee on Aging

Tim Scott
Ranking Member
Senate Special Committee on Aging

Jon Tester
Chairman
Senate Committee on Veterans’ Affairs

Jerry Moran
Ranking Member
Senate Committee on Veterans’ Affairs



Mark Takano
Chairman
House Committee on Veterans' Affairs

Mike Bost
Ranking Member
House Committee on Veterans' Affairs

Elaine Luria
Chair
Subcommittee on Disability Assistance
and Memorial Affairs

Troy Nehls
Ranking Member
Subcommittee on Disability Assistance
and Memorial Affairs

Frank J. Mrvan
Chairman
Subcommittee on Technology
Modernization

Matthew Rosendale, Sr.
Ranking Member
Subcommittee on Technology
Modernization



United States Senate

WASHINGTON, DC 20510

June 30, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

It has come to our attention that the Department of Justice (DOJ) has not reported on the federal government's compliance with accessibility standards for information technology over the last decade, despite statutory requirements for it to do so biennially. The Rehabilitation Act of 1973 (herein the "Act") requires government electronic and information technology to be accessible for individuals with disabilities.¹ In addition, Section 508 of the Act states that, every two years, "the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance."² On behalf of the 26 percent of Americans living with a disability, including the 40 percent of people over age 65 who have a disability, we write to urge DOJ to take immediate steps to meet its obligations and once again issue these biennial reports.³

The last publicly available DOJ report on Section 508 compliance is from 2012.⁴ The 2012 report identified substantial gaps in Section 508 compliance across the federal government and included recommendations for agencies to meet their accessibility requirements. For example, DOJ reported "mixed levels of success" with general processes for Section 508 implementation and recommended that agencies increase training, appoint 508 coordinators, and establish 508 offices or programs.⁵ The 2012 report also found that agency components often used "basic contract requirements" during procurement instead of specific Section 508 accessibility standards.⁶ The report recommended the use of specific language along with the development of procurement policies for both Section 508 compliance and product testing for accessibility by agency officials.⁷ Furthermore, the report found that approximately 30 percent of agency

¹ The Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq. (1973).

² 29 U.S.C. 794d(d)(2). See also Office of Management and Budget, *Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act*, at 6, (Jan. 24, 2013), <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>. The OMB highlighted DOJ's biennial report as an important monitoring tool in this memo, which detailed a strategic plan to improve Section 508 compliance across the government.

³ *Disability Impacts All of US*, CDC.gov, <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html#:~:text=61%20million%20adults%20in%20the.is%20highest%20in%20the%20South> (last reviewed Sept. 16, 2020).

⁴ *Section 508*, JUSTICE.GOV, <https://www.justice.gov/crt/section-508-home-page-0> (last updated Nov. 17, 2021.)

⁵ U.S. Dep't of Justice, *Report to the President and Congress: Accessibility of Federal Electronic and Information Technology*, (2012), https://www.ada.gov/508/508_Report.htm#_Toc327291802.

⁶ *Id.*

⁷ *Id.*



components had policies and procedures for reporting Section 508 complaints.⁸ It recommended establishing specific procedures and widely distributing information on how to file a complaint.⁹

The 2012 report's findings provided an important examination of the progress the federal government made toward meeting its obligations under Section 508. It also provided crucial recommendations for improving federal compliance. Without regular reports, Congress, taxpayers, and agencies themselves lack a crucial source of feedback for identifying and resolving longstanding accessibility issues. While not a substitute for DOJ's government-wide evaluations, a recent congressionally mandated report by the Department of Veterans Affairs (VA) showed that, as of 2021, just eight percent of VA internet sites and six percent of VA intranet sites fully complied with Section 508 requirements.¹⁰ The lack of fully accessible websites at VA is a potential barrier for the one-quarter of all veterans with a service-connected disability,¹¹ and may well be a harbinger of similar shortfalls at other federal agencies and departments. Third-party groups also have identified ongoing accessibility concerns with federal technology, demonstrating the need for additional oversight. For example, a 2021 report found that 30 percent of the most popular federal websites did not pass an automated accessibility test for their homepage and 48 percent of those sites failed the test on at least one of their three most popular pages.¹² Furthermore, one-third of those sites did not have easily discoverable contact information to report accessibility issues.¹³

Accordingly, we ask you to resume your agency's biennial reports on Section 508 compliance across the federal government. We also ask that you answer the following questions by July 29, 2022:

1. Why did DOJ stop issuing biennial reports on Section 508 compliance?
2. Given the absence of biennial reports, does DOJ believe it is satisfying its data collection and reporting obligations under Section 508?
3. Has DOJ collected Section 508 compliance data more recently than 2012? If so, when? If not, why not?
4. Has DOJ issued recommendations or feedback to other federal agencies on their Section 508 compliance?

⁸ *Id.*

⁹ *Id.*

¹⁰ U.S. Dep't of Veterans Affairs, *Report on the Accessibility of Websites of the Department of Veterans Affairs to Individuals with Disabilities*, at 2, (2021), https://www.casey.senate.gov/imo/media/doc/report_on_the_accessibility_of_websites_of_the_department_of_veterans_affairs1.pdf. See also Press Release, Casey Leads Bipartisan Letter Urging Veterans Affairs to Make Website Accessible for People with Diabetes (June 2022), <https://www.casey.senate.gov/news/releases/casey-leads-bipartisan-letter-urging-veterans-affairs-to-make-websites-accessible-for-people-with-disabilities>.

¹¹ Census Bureau, *Those Who Served: America's Veterans From World War II to the War on Terror*, (June 2020), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/acs-43.pdf>.

¹² Ashley Johnson and Daniel Castro, *Improving Accessibility of Federal Government Websites*, ITIF (June 3, 2021), <https://itif.org/publications/2021/06/03/improving-accessibility-federal-government-websites>.

¹³ *Id.*



- 5. Does DOJ have the resources and personnel necessary to comply with the law and issue these reports?
- 6. How does DOJ plan to begin meeting its biennial reporting requirement under Section 508 of the Rehabilitation Act? Please include a detailed timeline indicating when DOJ plans to notify federal departments that it plans to conduct a survey; when it plans to send that survey; and when it plans to issue a report to Congress and the President detailing the results of the survey, along with its recommendations.

Thank you for your attention to this important matter.

Sincerely,

Robert P. Casey, Jr.
Chair
Special Committee on Aging

Tim Scott
Ranking Member
Special Committee on Aging

Charles E. Grassley
Ranking Member
Committee on the Judiciary

/s/

Richard J. Durbin
Chair
Committee on the Judiciary

Patty Murray
Chair
Committee on Health, Education,
Labor and Pensions

Richard Burr
Ranking Member
Committee on Health, Education,
Labor and Pensions

Tammy Duckworth
U.S. Senator



United States Senate

WASHINGTON, DC 20510

August 11, 2022

The Honorable Eugene L. Dodaro
Comptroller General of the United States
United States Government Accountability Office
441 G Street NW
Washington, D.C., 20548

Dear Mr. Dodaro:

Recent congressional oversight leaves us concerned about the federal government's efforts to meet its legal obligations to ensure that its electronic and information technology, including websites, is accessible for people with disabilities. Accessibility challenges appear to exist across the government, raising important questions about the effectiveness of accountability mechanisms intended to monitor the accessibility of federal technology and whether they are being properly carried out. Given these concerns, we ask the Government Accountability Office (GAO) to examine how the federal government is complying with laws requiring the availability of accessible technology and how it evaluates whether legal requirements are being met.

For nearly a quarter century, Section 508 of the Rehabilitation Act of 1973 has required the government to make its electronic and information technology accessible to people with disabilities.¹ Accessibility is important to a broad swath of taxpayers who rely every day on information and services provided by the federal government. About 26 percent of the American public has a disability and disabilities are more common among individuals over the age of 65, a rapidly growing segment of our Nation's population.² As such, Section 508 compliance is critical to ensuring a sizable share of the American public, including individuals with disabilities and seniors, can access government information and technology.

Despite the long-standing requirements of Section 508, recent oversight of the Department of Veterans Affairs (VA) has identified significant accessibility gaps, raising questions about whether similar shortcomings exist across the federal government. The Department of Veterans Affairs Website Accessibility Act of 2019³ required VA to produce a report to Congress on the

¹ 29 U.S.C. §794d; Section 508 was added to the Rehabilitation Act in 1986, at which time it included non-binding standards for accessible government electronic and information technology. Further amendments in 1998 strengthened those standards and made them a requirement. See "Section 508 of the Rehabilitation Act of 1973," General Services Administration, updated March 2022, <https://www.section508.gov/manage/laws-and-policies/>. See also Department of Justice, "Title IV—Rehabilitation Act Amendments of 1998 Section 508: Electronic and Information Technology," n.d., <https://www.justice.gov/sites/default/files/crt/legacy/2009/02/18/deptofed.pdf>.

² "Disability Impacts All of Us," Centers for Disease Control and Prevention, last reviewed September 16, 2020, <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>; see also Administration for Community Living, *2020 Profile of Older Americans*, May 2021, <https://acl.gov/sites/default/files/Aging%20and%20Disability%20in%20America/2020ProfileOlderAmericans.Final.pdf>.

³ Department of Veterans Affairs Website Accessibility Act of 2019, Pub. L. No. 116-213 (2019).



department's compliance with Section 508 requirements. That report found that only 8 percent of VA's internet sites and 6 percent of its intranet sites are fully compliant with Section 508.⁴

We are concerned that VA's lack of compliance with Section 508 may extend to other federal departments and agencies. While there is little available information, third party reports suggest that Section 508 shortcomings do occur in other federal departments and agencies. For instance, a 2021 report found that the homepages for 30 percent of the most popular federal websites were not fully accessible. Nearly half of those sites (48 percent) failed an accessibility test on at least one of their three most popular sub-pages. Further, one-third of popular federal websites lacked easily discoverable contact information to report accessibility issues.⁵ Anecdotal evidence similarly suggests ongoing accessibility barriers. For example, experts from the National Association of the Deaf describe how early COVID-19 videos from the Department of Health and Human Services sometimes lacked proper captioning and were not available in American Sign Language.

Both legal requirements and government-wide guidance require departments and agencies to conduct certain types of accessibility oversight and enforcement. The Department of Justice (DOJ) is required by law to submit a report to the President and Congress every two years with information and recommendations on Section 508 compliance.⁶ However, DOJ has not issued these statutorily required biennial reports since 2012, a concern recently raised in a bipartisan letter to the Attorney General.⁷ And while the Office of Management and Budget requires 24 agencies to assess and report their compliance with Section 508's standards twice a year, the information collected through this process is not made public.⁸ The lack of public reporting and accountability leaves Congress and taxpayers without adequate information about the rate of compliance with disability access requirements across government websites and other information technology.

Given the importance of accessible technology for universal access to government information, we ask GAO to assess Section 508 oversight efforts and compliance across the federal government. Specifically, we would like GAO to answer the following questions:

- (1) To what extent have agencies consistently assessed and reported how they implement requirements related to Section 508? How do selected agencies assess their compliance

⁴ Department of Veterans Affairs, *Report on the Accessibility of Websites of the Department of Veterans Affairs to Individuals with Disabilities*, September 2021, https://www.casey.senate.gov/imo/media/doc/report_on_the_accessibility_of_websites_of_the_department_of_veterans_affairs1.pdf, at 2.

⁵ Information Technology & Innovation Foundation, *Improving Accessibility of Federal Government Websites*, June 3, 2021, <https://itif.org/publications/2021/06/03/improving-accessibility-federal-government-websites>.

⁶ Rehabilitation Act of 1973, 29 U.S.C. §794d (d)(2) (1998).

⁷ "Section 508 Surveys and Reports," Dept. of Justice, last reviewed November 17, 2021 <https://www.justice.gov/crt/section-508-home-page-0>; see also

"Casey Leads Bipartisan Letter Demanding Answers from Department of Justice on Lack of Web Accessibility for People with Disabilities: United States Senate Special Committee on Aging," U.S. Senate Special Committee on Aging, June 30, 2022, <https://www.aging.senate.gov/press-releases/casey-leads-bipartisan-letter-demanding-answers-from-department-of-justice-on-lack-of-web-accessibility-for-people-with-disabilities>.

⁸ "Policy & Management: Monitor and Report Progress," Section 508, General Services Administration, last reviewed May 2022, <https://www.section508.gov/manage/reporting/>.



with Section 508 standards, including any mechanisms they provide for the public to report problems?

- (2) Are federal agencies charged with providing technical assistance or overseeing compliance with Section 508 standards and reporting requirements fulfilling their respective responsibilities?
- (3) Are agencies and departments, including DOJ, meeting their Congressionally mandated oversight responsibilities under Section 508? Please also detail any Section 508 reporting and accountability mechanisms that may have lapsed or sunset.
- (4) What avenues for recourse are typically available for a member of the public or a government employee to report and resolve non-compliance with Section 508? How do federal departments and agencies typically track and respond to reports of non-compliance with Section 508 that are reported by federal employees or members of the public? Do they maintain records of those reports, and, if so, how long do they typically keep those records?
- (5) How does the United States Access Board ensure that its technical assistance reflects the most current accessibility standards?
- (6) How do selected agencies incorporate and oversee accessibility requirements in contracts for electronic and information technology products and services?
- (7) The Office of Management and Budget issued a plan in 2013 to improve Section 508 compliance and oversight.⁹ How well are the elements of the plan working to achieve the goals of improved compliance?

Thank you for your attention to this important matter.

Sincerely,

Robert P. Casey, Jr.
Chairman
Senate Special Committee
on Aging

Patty Murray
Chair
Senate Committee on
Health, Education, Labor
and Pensions

Richard Burr
Ranking Member
Senate Committee on
Health, Education, Labor
and Pensions

Mike Braun
Member
Senate Special Committee on Aging

Kirsten Gillibrand
Member
Senate Special Committee on Aging

⁹ Office of Management and Budget, "Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act," January 24, 2013, <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>.



Congress of the United States
Washington, DC 20510

October 7, 2022

The Honorable Denis McDonough
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary McDonough:

Thank you for your July 31, 2022, response to our letter regarding the Department of Veterans Affairs' (VA) compliance with Section 508 of the Rehabilitation Act of 1973, which requires federal websites and other federal electronic and information technology to be accessible for people with disabilities.¹ We appreciate your commitment to improving the accessibility of VA's technology and support your efforts. We plan to closely monitor the Department's implementation efforts as you work toward those improvements.

VA's response provided substantial new information about VA's efforts to improve its websites for people with disabilities, as required by the VA Website Accessibility Act. We particularly appreciate the more clearly articulated plans for prioritizing fixes for the most-used VA websites, including the more actionable remediation plans for websites maintained by the Veterans Benefits Administration (VBA) and the National Cemetery Administration (NCA). Furthermore, during a briefing to Committee staff on September 7, 2022 (September briefing), VA provided additional relevant information on many of these topics. However, there are several areas where we are requesting more information and would like to emphasize the importance of continued focus. We seek a clear commitment from VA to broaden outreach to people with disabilities, bolstering efforts to address these longstanding issues. We also write seeking additional details about VA's plans to bridge accessibility gaps going forward and ask that the Department focus attention on several outstanding issues.

First, we are concerned that VA has not provided plans to expand outreach on disability access issues beyond existing relationships with Veterans Service Organizations (VSOs). VA stated that "[i]ntroducing separate engagement channels will require additional Section 508 staff and potentially overcomplicates issue resolution."² We encourage the Department to continue its outreach to VSOs, which serve an important role representing veterans. We also firmly believe outreach to disability groups would benefit veterans and non-veterans in the Department's workforce. The Department's own checklist of functional performance, which VA provided in its response, notes the need to ensure that technology is accessible for people without vision and

¹ 29 U.S.C. § 794d

² Secretary McDonough to Senator Casey, July 31, 2022 (hereinafter "McDonough Letter"). See VA Responses to Section 508 Compliance Questions (hereinafter "VA Response") at VA-012.



with limited vision; without perception of color; without hearing and with limited hearing; without speech; with limited manual manipulation; with limited reach and strength; with limited language, cognitive and learning abilities.³ It is not clear that VA is engaging groups with expertise in these areas of disabilities beyond blindness, limiting the Department's ability to ensure technology meets accessibility requirements and functions well for end users. We urge VA to revisit its engagement plans and report back to us how it will conduct outreach to a diverse array of disability groups.

Second, VA provided additional information regarding contracts that have lapsed or are otherwise not in place, creating compliance gaps with federal accessibility laws. VA reported that one contract was cancelled in September 2021 due to the "vendor's failure to comply with the terms agreed upon in the initial task order" resulting in the loss of capacity to scan multiple websites and the ability to "collect timely website/webpage metrics mandated by Federal law for agency and outside stakeholders."⁴ During the September briefing, VA indicated that a subsequent automated scanning contract remains in protest. The Department's justifications for these contract decisions do not alleviate our concern that important work, particularly scanning and remediation, is not being adequately performed. It is important that VA retain capability to perform these critical tasks, and we ask that the Department provide us with (1) an update regarding when the automated scanning contract is awarded and commences work, (2) the name of the new vendor and (3) which contractors or offices are performing each element of the former Section 508 compliance contract.

Third, we believe that VA should focus resources on expediting its remediation plans, responding to reported accessibility issues and instituting infrastructure to address accessibility shortfalls. For example, while the NCA's updated remediation plan is a significant improvement, it reported that fixing 950 un-accessible PDFs will not be completed until 2026—roughly one per day.⁵ We encourage NCA to more quickly address such seemingly straightforward issues. Similarly, we are concerned that less than one-third of the service tickets filed by VA employees in 2021 have been addressed to date, suggesting that VA is not responding quickly to accessibility barriers its workforce experiences.⁶ Lastly, rather than ensuring existing check-in kiosks at VA health centers are accessible to people with disabilities, veterans requiring accessibility services must "complete appointment check-in activities by seeing a staff member."⁷ However, VA staff training "to assist individuals with disabilities" is optional rather than mandatory.⁸ It appears that the current dispersion of Section 508 responsibilities is ineffective and we support the creation of an Accessibility Office, which VA is considering.⁹ Such an office would raise the profile of disability access internally and is likely to better guide efforts across the Department. Please keep our offices apprised of the progress and timeline of establishing such an office.

³ McDonough Letter, Attachment 5, "Evaluation of Technical Criteria for Section 508," at VA-069-VA-071.

⁴ McDonough Letter, VA Response, at VA-013.

⁵ McDonough Letter, Attachment 1, "National Cemetery Administration Remediation Plan," June 23, 2022, at VA-024.

⁶ McDonough Letter, VA Response, at VA-009.

⁷ *Id.*, at VA-021.

⁸ *Id.*

⁹ *Id.*, at VA-010.



Finally, VA stated that “[i]n future versions of our Section 508 compliance report, the Department will seek to match compliance reporting to measures we believe best reflect the overall accessibility of VA’s web presence (i.e., by taking into account the relative usage of the pages and tools).”¹⁰ We share your belief that VA should prioritize website remediation based on relative usage—a point highlighted in a recent hearing before the Senate Special Committee on Aging (Aging Committee).¹¹ However, Congress and taxpayers should remain apprised of the full scope of VA’s Section 508 compliance. Reporting should not be limited only to those sites most frequently used by employees and the public. An audit VA provided in response to our letter showed that regional benefits office sites, human resources pages and the Department’s portal for jobseekers are among the public-facing websites that currently fall at or below 50 percent of compliance with accessibility requirements. A second audit showed that dozens of internal websites used by VA employees are similarly noncompliant, including the VA’s phonebook, which was scored at zero percent compliance. Accordingly, we ask that VA continue to report the total number of websites that are not compliant with Section 508 rather than self-selecting how compliance is measured.

We greatly appreciate your efforts to improve the accessibility of VA’s technology and the significant amount of information your staff undertook to provide information in response to our questions. Yet, there is clearly more work to do, as evidenced by Mr. Ron Biglin’s statement to the Aging Committee. Mr. Biglin, a blind Pennsylvania Air Force veteran, reported that the VA’s health portal, My HealtheVet, does not work with screen-reading software the Department provided him.¹² We want to ensure that all disabled veterans, and the VA employees who work for them, are on a level playing field when accessing technology.

We request a response to this letter by November 14, 2022 and look forward to working with VA as it ensures its websites, apps and other technology are accessible for all Americans.

Sincerely,

Bob Casey, Jr.
Chairman
U.S. Senate Special
Committee on Aging

Jon Tester
Chairman
U.S. Senate Committee
on Veterans’ Affairs

Mark Takano
Chairman
U.S. House Committee
on Veterans’ Affairs

¹⁰ McDonough Letter, at VA-001.

¹¹ [Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans, Before the U.S. Senate Special Committee on Aging](#), 117th Cong. 20 (2022) (statement of Eve Hill).

¹² *Id.*, statement of Ron Biglin.



United States Senate

WASHINGTON, DC 20510

October 7, 2022

The Honorable Robin Carnahan
Administrator
U.S. General Services Administration
1800 F St, NW
Washington, DC 20405

Dear Administrator Carnahan:

We write seeking information that the General Services Administration (GSA) maintains regarding the accessibility of federal technology and websites. Section 508 of the Rehabilitation Act of 1973 requires government electronic and information technology to be accessible for individuals with disabilities.¹ We are examining federal compliance with Section 508 in light of recent congressional oversight that has identified accessibility gaps in federal websites and other technologies. GSA plays a critical role in ensuring that federal technology and websites are accessible for seniors and people with disabilities by analyzing Section 508 compliance, information that agencies report to the Office of Management and Budget (OMB) twice a year.² Given the current absence of public, government-wide evaluations of federal technology accessibility,³ it is critical that GSA's timely data and analysis be made available to Congress so that we may better evaluate compliance with and the effectiveness of existing accessibility laws and programs.

One-in-four Americans live with a disability and roughly 40 percent of America's seniors have a disability.⁴ Older adults and people with disabilities are especially reliant on federal benefits, like Medicare and Social Security. As such, it is critically important that they are able to access federal websites, through which they share secure information, apply for program enrollment and more. The COVID-19 pandemic accelerated a shift toward using the virtual front door—websites and mobile apps—to deliver government services, making it even more important that federal technology be accessible for seniors and people with disabilities.

Accessible websites and technology are extremely important to these populations—and the federal employees who provide them services—yet there is mounting evidence the government is not meeting its obligations as required by Section 508. The Aging Committee recently received testimony highlighting the barriers older adults and people with disabilities face when trying to

¹ The Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq. (1973).

² "Policy & Management: Monitor and Report Progress," General Services Administration, last modified May 2022, <https://www.section508.gov/manage/reporting/>.

³ U.S. Senate Special Committee on Aging, "Casey Leads Bipartisan Letter Demanding Answers from Department of Justice on Lack of Web Accessibility for People with Disabilities," press release, June 30, 2022, <https://www.aging.senate.gov/press-releases/casey-leads-bipartisan-letter-demanding-answers-from-department-of-justice-on-lack-of-web-accessibility-for-people-with-disabilities>.

⁴ "Disability Impacts All of Us," Centers for Disease Control and Prevention, last reviewed September 16, 2020, <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>.



access federal technology.⁵ Witnesses cited multiple examples of lawsuits alleging inaccessible technology filed against federal agencies that resulted in settlements.⁶ The Social Security Administration, Centers for Medicare & Medicaid Services, Small Business Administration and Department of Education are among the agencies that entered settlements in recent years, underscoring the widespread nature of accessibility barriers.⁷

Hearing testimony also cited the example of a federal employee who worked “for years on an inaccessible program that is central to her job.” However, when the agency replaced that inaccessible program, it selected another inaccessible program.⁸ In another case, an agency “failed to act on [an] employee’s formal Section 508 complaint for eight years.”⁹ This testimony follows a Congressionally mandated report from the Department of Veterans Affairs (VA) showing that over 90 percent of VA websites are not fully accessible for people with disabilities.¹⁰ Taken together, this evidence shows the need for continued oversight and transparency so Congress and taxpayers can better track the government’s progress. Further information is needed to identify and craft adequate policy solutions, and to ensure all Americans and federal employees can utilize fully accessible information technology.

Federal law requires the Department of Justice (DOJ) to submit biennial reports to Congress and the President on Section 508 compliance, but it has not done so since 2012.¹¹ GSA appears to maintain and analyze similar information, which would be useful for Congress as it studies the accessibility of federal technology.¹² A 2013 strategic plan to improve federal technology accessibility instructs GSA to use agency compliance data to conduct “interagency analysis, trending, and planning to improve collaboration across agencies, reduce redundancies, and develop solutions and recommendations for improving Section 508 management across the Federal government.”¹³

Given the current lack of public information on Section 508 compliance, we request that GSA provide the most recent Section 508 data and analysis it has collected and urge the agency to

⁵ *Click Here: Accessible Federal Technology for People with Disabilities, Older Americans, and Veterans, Before the U.S. Senate Special Committee on Aging*, 117th Cong. 20 (2022) (hereinafter “Accessible Federal Technology Hearing”), available at <https://www.aging.senate.gov/hearings/click-here-accessible-federal-technology-for-people-with-disabilities-older-americans-and-veterans>.

⁶ *Id.*, statement of Anil Lewis.

⁷ *Id.*

⁸ *Id.*, statement of Eve Hill.

⁹ *Id.*

¹⁰ U.S. Senate Special Committee on Aging, “Casey Leads Bipartisan Letter Urging Veterans Affairs to Make Websites Accessible for People with Disabilities,” press release, June 7, 2022, <https://www.aging.senate.gov/press-releases/casey-leads-bipartisan-letter-urging-veterans-affairs-to-make-websites-accessible-for-people-with-disabilities>. See also Department of Veterans Affairs, *Report on the Accessibility of Websites of the Department of Veterans Affairs to Individuals with Disabilities*, n.d. [hereinafter “VA Report to Congress”], available at https://www.casev.senate.gov/imo/media/doc/report_on_the_accessibility_of_websites_of_the_department_of_veterans_affairs1.pdf.

¹¹ “Section 508 Home Page,” Department of Justice, updated November 17, 2021, <https://www.justice.gov/crt/section-508-home-page-0>.

¹² There is broad bipartisan interest in improving the accessibility of federal technology and other websites. Since June 2022, letters regarding Section 508 compliance to VA, DOJ and the Government Accountability Office have been signed by 11 senators and eight House members, including the chairs and ranking members of five committees and three subcommittees.

¹³ Office of Management and Budget, *Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act*, at 4, (Jan. 24, 2013) (hereinafter “2013 Accessibility Plan”), <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>.



consider making all future reports public. We further request that GSA provide all summary reports, trend analysis, or other analyses or recommendations from 2019 through 2022 that found “ways to improve collaboration across agencies, reduce redundancies, and develop solutions to improve the management of government accessibility programs.”¹⁴

In addition, we request responses to the following questions no later than November 14, 2022:

1. In a recent letter to Members of Congress, VA explained the impact of a lapsed contract related to Section 508 monitoring and compliance.¹⁵ One impact was an “[i]nability to collect timely website/webpage metrics mandated by Federal law for agency and outside stakeholders to include Office of Management and Budget (OMB), Department of Justice (DOJ), and Congress.”¹⁶
 - a. On what date did GSA become aware that VA was not collecting “timely website/webpage metrics” that it was required to report to OMB? What, if any, actions has GSA taken to address this issue?
 - b. Since 2019, how many agencies have failed to provide mandated metrics for GSA’s biannual report? How are agencies held accountable when they do not submit required data to GSA?
 - c. What process is in place for GSA, working by itself, with OMB or with other agencies, to respond when an agency submits incomplete or out-of-date data, or fails to submit data entirely?
2. Recent testimony to the Aging Committee demonstrated that taxpayers and federal employees frequently face accessibility barriers when using federal technology, while raising concern about the adequacy of reporting mechanisms to address such issues. The government’s Section 508 strategic plan in 2013 instructed agencies to provide “the public with a standard feedback mechanism and statement available on agency websites.” Agencies also must “include an accessibility statement on all inter- and intranet websites,” that “at a minimum, include contact information for the agency Section 508 program, date of the last update, and the ability for website visitors to provide comments and/or feedback regarding the agency Section 508 program.”¹⁷ Please provide GSA’s most recent findings regarding fulfillment of these requirements.
3. Recent testimony to the Aging Committee recommended that accessibility data analyzed by the GSA “should be shared with the Justice Department for its Section 508 report, to avoid forcing the Department to reinvent the wheel” when developing its statutorily required biennial reports.¹⁸ From GSA’s standpoint, would such information-sharing be

¹⁴ *Supra*, note 2.

¹⁵ Secretary McDonough to Senator Casey, July 31, 2022. *See* VA Responses to Section 508 Compliance Questions (hereinafter “VA Response”) at VA-013, available on the Aging Committee website.

¹⁶ *Id.*

¹⁷ *Supra*, note 13, at 3.

¹⁸ *Supra*, note 5, Accessible Federal Technology Hearing, statement of Eve Hill.



feasible? Are steps needed to allow for such information-sharing, including, but not limited to, funding, staffing or statutory authority?

Thank you for your attention to this important matter.

Sincerely,



Bob Casey, Jr.
Chairman
Special Committee on Aging



Tim Scott
Ranking Member
Special Committee on Aging



Gary Peters
Chairman
Committee on Homeland Security and
Government Affairs

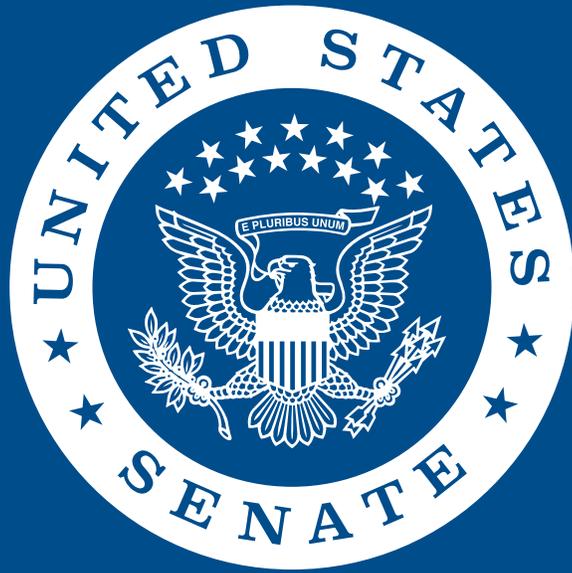


Rob Portman
Ranking Member
Committee on Homeland Security and
Government Affairs



Patty Murray
Chair
Committee on Health, Education, Labor and
Pensions

cc: The Honorable Shalanda Young, Director, Office of Management and Budget



UNLOCKING THE VIRTUAL FRONT DOOR